

MINUTES OF THE MEETING
AGRICULTURE, LIVESTOCK AND IRRIGATION
MONTANA STATE SENATE

March 16, 1983

The Agriculture, Livestock and Irrigation Committee meeting was called to order on the above date, in Room 415 of the State Capitol Building, at 1:00 p.m., by Chairman Galt.

ROLL CALL: All members present.

CONSIDERATION OF HOUSE BILL 646: Earl C. Lory, HD 99 Missoula, said this is a companion bill to HB 762 heard Monday. It addresses some of the problems of 762. HB 646 is a local control bill. It will allow counties by resolution to remove certain exemptions and restrictions relating to subdivision review. He had a slight change in the bill and presented some amendments. Exhibit #1. There was an error in the bill and the amendments correct that. Cemetary lots and mineral leases were left in. With this amendment they are removed from the bill. The county can make exemptions in 20 acre, family split and occassional sales. If a county wishes to make increasing regulations, they can do this by resolution. It takes it down to local control.

Charles Landman, Montana Environmental Information Center, supported the bill. Testimony, Exhibit #2. Table, Exhibit #3.

Jean Wilcox, Deputy County Attorney, Missoula County, said there are definite different needs of counties across the state. The money for capital improvements has to come from the taxpayers in general if the developer is not paying those costs. Testimony, Exhibit #4. She drew the committee's attention to a particular developer in Missoula county who later went bankrupt, after leaving the subdivision without roads, etc. Exhibit #5. By the time the county found out what was happening, the statute of limitations had run out and it was too late to file a civil action against this developer.

The following spoke in favor of the bill:

Mike Money, Bozeman, Exhibit #6.

Walter Steingruber, Exhibit #7.

Dennis McCoy, Exhibit #8.

Charlie Hale, Lewis and Clark County, showed the committee a large plat with lots in Jefferson County. He said the certificate of survey, indicating the lots available, showed most of the lots are unusable. Lewis and Clark county was in the process of spending thousands of dollars to provide services to the people in the county. Because of these unreviewed subdivisions, it has stymied the county's plans. At noon time he took a trip to one of these subdivisions, with a Planning Board member, and looked at lots on the Lewis and Clark and Jefferson county line. There were no public roads, no plans for utilities, no easements. If citizens in Lewis and Clark county agree at public hearings, they could decide to tighten up the laws.

Elizabeth J. Knight, Jefferson/Broadwater sanitarian, submitted written testimony in favor of the bill. Exhibit #9.

OPPONENTS:

Dennis Rehberg, Montana Association of Realtors, said he represents people who are buying and selling property. Because they work on a per cent, they get a higher rate on their commission if the land is worth more. He said he is here to represent the land owners, not anyone who is interested in further control or restrictions. Wibaux county was not interested. Sheridan county may not have these problems. It is a local option and he didn't think the House wants a local option bill. He used cemetery lots as an example of subdivisions that had to be written in.

Tom Llewellyn, Yellowstone county, told the committee he has been subdividing for 15 years. In this time he has never used occasional sales, 20 acre splits, etc. Yellowstone county has a means of controlling this. They would have brought action against those avoiding the Subdivision Act. He thought the purpose of the Subdivision Act was to catch everyone and make them pay their own way. He has master planned 1400 acres and paid for it. He had 950 acres in the area done with subdivision and planning. Some people subdivided in 20 acre tracts because it was in the foot hills. He didn't understand why western Montana has more problems when other major communities are able to do it.

Julie Hacker, representing herself, opposed. Exhibit #10.

Tom Wester, Montana Homebuilders, said the home building industry is very volatile. It is fast moving and fast changing. The cost of drafting, implementing and using the land is very expensive. This expense must be passed on. Developers can't afford it either. If Missoula county should come out with this and Ravalli county does not, this will put some regulations on Ravalli and you will see further increases in urban sprawl because of this.

Elmer Flynn, rancher, said the title is explanatory. This is a pretty big package. We have many state agencies for rule making authority but they have to come in to be sure they are in compliance with the law. Now we want to give county authorities the right to go home and make any laws they want. All subdivisions in Missoula that bypassed aren't bad and all that have complied aren't good. A person in the Planning Department told him that, if the bankrupt developer had put all the money he collected back into the subdivision, it would have been a good subdivision. He figured they could come in with some amendments to tighten up the family split, etc. This is going too far, and giving government bureaucracy law making authority.

Vera Cahoon, Missoula County Freeholders Association, Exhibit #11 and Bob Custer, Exhibit #12, opposed.

Gerald Ditto said he has 150 acres of land on the Fairfield Bench, and gave the committee a petition with 65 names opposing the bill.

Exhibit #13. He said they are not trying to evade anything or bypass things but did not like the bill prohibiting them from selling or giving relatives a piece of land.

There were no further opponents.

Aklestad to Rehberg: In looking at the map passed out, there is a definite problem with access to the lots. What do you think can be done.

Rehberg: In all subdivisions being reviewed there are good ones and bad ones. The Certificate of Survey should answer this.

Aklestad: Doesn't that seem like an obvious evasion to the Act?

Rehberg: If it is an evasion, then maybe they should address it by the Act. He believed they were addressing the wrong problem.

Galt: How do the local authorities take care of this. This is not up to the people?

Lory: By resolution, the people elect the commissioners.

Conover: Who pays for roads when you come out to buy this land.

Lory: If the plan is reviewed under a proper review it is made under the Subdivision Act. If made under the 20 acre split, it can be unreviewed. If the plot is reviewed it is required roads be in before the plot is approved. One of the provisions required is that it have paved roads, etc., and they are put in at a cost to the developer.

Conover: The way it is now with the county, who surveys roads, etc., is it charged to whole county?

Lory: When the final plot is made, Missoula county requires the roads put in before the plan is approved. The developer pays for it in this case. If it is an unreviewed case, the county has to pick it up.

Representative Lory, in closing, said HB 646 is a local option bill. Recognizing the diversities in Montana, there are some urban counties with a lot of trouble. There is one general review in HB 762 and this one leaves it up to the county that feels it is necessary. It is entirely down to local counties. It only allows local control where they are having problems. It is not going to stop occasional sales, etc. He emphasized that this is a good bill.

CONSIDERATION OF HOUSE BILL 770: Representative Marian Hanson, HD 96 Missoula, presented the bill which revises laws for condominiums. Instead of saying condominiums are "exempt from", it says are "subject to". It was amended in the House to include a building bought and turned into a condominium. If it is a 16 unit apartment house and then turned into a condominium, it

would remain the same.

Jean Wilcox, Deputy County Attorney, Missoula, said the bill basically would put all these things together in one place. She handed out a map, Exhibit #14, showing a rental unit conversion. She was asking there be some consideration for this in state law and asked these types of developments be exempt as long as they meet requirements. Exhibit #15.

Elizabeth J. Knight, Jefferson/Broadwater County Sanitarian, submitted written testimony in favor. Exhibit #9.

Tom Llewellyn, Billings, said this deals only with conversion units. It has nothing to do with new construction and nothing to do with restrictions of land. If he would like to go to condominiums from rental units he now has to go back for another review. He thinks this is piecemeal. He had an amendment he thought would accomodate the part relating to new construction. Exhibit #16.

Senator Galt asked Representative Hanson to look at the amendment.

Representative Hanson, in closing, really believed the bill is needed to avoid any more legal problems. She had co-sponsored, with Representative Dozier, a resolution to study condominiums. The resolution asks for an interim study on condominiums.

The hearing closed on HB 770.

CONSIDERATION OF HOUSE BILL 118: Representative Hal Harper, District 30, explained that HB 118 was an act to increase the maximum per lot fee chargeable for subdivision review. The Subdivision Bureau closed in November of 1982 and two FTES were laid off. The Governor got concerns from all over the state that they would not have the expertise to handle all the problems they would come into. This particular bill would raise lot fees from \$30 to \$50 maximum with an average of \$45 per lot. The average amount would probably be \$45. They first adopted lot fees in 1975 and the state has had no raise. Raises have been entirely taken by local government and taken by local developments. Budgets have already been drawn up in the House and were predicated on the \$50 lot fee. If it isn't done they will be in some trouble.

Steve Pilcher, Chief of the Water Quality Bureau, Montana Department of Health and Environmental Sciences, testified in behalf of the bill. Full testimony included as Exhibit #17.

Charles Landman, Montana Environmental Information Center, supported the bill.

OPPONENTS:

Tom Llewellyn, Billings, said he has been submitting things to

the Department of Health for a long time. He said the reason they failed was because they were inefficient. He felt the responsibility belongs to the Water Quality Bureau. They have the staff and systems to do a proper job. The Water Quality Bureau has personnel and expertise to review it. One environmental impact statement he had submitted to the Department of Health took 120 days. It was a non productive, time consuming review. Time is money to a developer. They don't really pay it. They put an interest factor to it and charge it to the consumer. He feels they have not adjusted in accordance with the economy. He saw that the lots for review were topping, but the Department did not decrease their staff so they got into trouble. He thinks the economy will come back slowly and they will not be out subdividing real quick. He was two weeks away with changing when the Subdivision Bureau was closed. Because of the type of system he was dealing with it belonged with the Water Quality Bureau. He worked with Story to get the Sanitation Bureau out. He would like to work with Mr. Pilcher and his department because they do a better job.

Dennis Rehberg, Montana Association of Realtors, gave the committee a list of fee increases by local government. Exhibit #18. He said the Department of Health and Environmental Sciences didn't go broke because it was short of money. They had budgeted for a higher amount of lots coming in and they didn't come in. He had information that showed that they had budgeted for fiscal year 1982 for 4 FTES. They could handle the work and they were budgeted for it. He gave members a memo from Dr. Drynen, Exhibit #19. The money was spent for an additional FTE. They are using figures from projections of the year before. When basing on lot fees you cannot base it on projection if lots are going down. When you have something done on a local level and then send it to the state, there is some type of duplication. It should be cleaned up. SB 406 was a bill they wrote and would have gotten them out of the environmental business. They were willing to do this but no attempt was made to look at the problem. In HJR 20 they believe they are reviewing things that are not necessary. They felt an increase in the lot fee is not necessary. In 1982, 6500 lots were being reviewed. This year there were 4900 lots.

John Hollow, Montana Home Builders, was not directly opposed to a small increase, but 66% is excessive. SB 140 and SB 406 would have been some vehicles but were killed by Natural Resources. HJR 20 could have some effect but won't have an effect if there is an excess of money available. If you are going to increase, he said keep the fee minimal, don't give them a 66% increase.

There were no further opponents.

Ochsner to Pilcher: We heard this three years ago that we should cut down. The fiscal analyst said to cut down.

Pilcher: I have been with the Water Quality Bureau and we have inherited the problem. Look at the chart on page 2 and you will see that the number of FTES has fluctuated as much as the lots

reviewed. This shows that reductions did occur. It shows the peak period and it has gradually been reduced to 4. He really felt that the department has made an effort to reduce its staff in accordance with the lots. He didn't think anyone could predict that subdividing would bottom out as drastically as it did.

Lee: What are we doing now.

Pilcher: The plan is to leave the subdivision program with the Water Quality Bureau as it is more cost effective. They have more sanitation personnel.

Lane: How many FTES do you have in the Water Quality Bureau.

Pilcher: 32.5 FTES for the coming biennium.

Boylan to Llewellyn: How many people do you have on your staff?

Llewellyn: One, you are looking at him.

Ray Hoffman, Department of Health and Environmental Sciences, said the Water Quality Bureau is 75% federally funded. The EPA gave them a very short extension to operate. You can't use Water Quality money in a subdivision area. Regarding how much money was spent, what you are looking at isn't true. A couple persons were paid off for sick leave and vacation.

Boylan to Llewellyn: If we don't pass this bill do you think you can function.

Llewellyn: He said he thought he could function. He has \$166,000 in review fees. It is going to take a while to build it up. He said the state has to tighten its belt just like we do. Four people are too many. He does not think subdivisions are going to make a rush on the state.

Rehberg: Even though the Appropriations Committee has set a budget for fiscal year 85, they don't have to match that. There is no reason they have to try to spend what they are given. \$215,000 was spent in 1982. They can live with it. If government wants to close it down, they will just have to clean up their act.

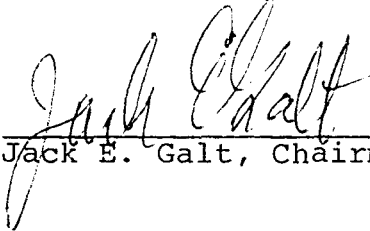
Galt: Even if the bill dies you will still be getting the \$30.

Harper: The \$30 fee does not go totally to the state, \$15 is returned. Representative Harper said he is a member of the Natural Resources Committee. He has never accused any member of not being hard working, etc. Both bills were heard in the Committee. They were discussed in the halls. He realized many House committees take more time than the Senate committees, but they did do a good review. HJR 20 was passed by committee and called for a study. They felt that to be consistent both should be looked into together. He said we are now down to bare bones functions. We are talking about water, sewer and sanitation restrictions. Why would a sub-

divider want to put a burden on an agency when it depends on it to get things handled. There was one extra FTE considered. They know how the FTE is working into the pay plan. In his opinion, per lot, the \$20 proposed to be added is minimal. It is a lot less than the cost to take your wife to dinner. Who is going to suffer. He thinks the realtor will suffer just as much. If you recommend killing the bill, he suggested the committee ask Representative Donaldson come up to explain how this is going to work. He wanted to make one point. The bill was amended from \$30 to \$35 to \$40 to \$50. The committee put \$45 on it because they thought they could get along with \$45. He thought they can justify the \$50 just as well as the \$45.

There being no further business, the meeting adjourned.

Senator Galt announced there would be a meeting Friday to take Executive Action on some of the bills still within the committee.



Jack E. Galt, Chairman

Also attached and made a part of this record is written testimony from Delbert Bullock, Chairman Jefferson County Board of County Commissioners - in favor of HB 118, HB 646, HB 770 Exhibit #20.

Attached and made a part of this record is written testimony in favor of HB 118 from Elizabeth J. Knight, R.S., Jefferson-Broadwater County Sanitarian. Exhibit #21.

ROLL CALL

AGRICULTURE COMMITTEE

48th LEGISLATIVE SESSION - - 19 83

Date 3-16-83

NAME	PRESENT	ABSENT	EXCUSED
GALT, Jack E.	✓		
KOLSTAD, Allen C.	✓		
AKLESTAD, Gary C.	✓		
OCHSNER, J. Donald	✓		
GRAHAM, Carroll	✓		
BOYLAN, Paul F.	✓		
CONOVER, Max	✓		
LANE, Leo	✓		
LEE, Gary	✓		

Each day attach to minutes.

and 646

SENATE Agriculture COMMITTEE

COMMITTEE

VISITORS' REGISTER

DATE **3-16-83**

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPPOSE
DENNIS McCoy	SELF	646	✓	
Joe Tuott	Beaverhead Co Planning Bd	646	✓	
Robert S. Custer	MARKS	646		✓
Jean Wilcox	Missoula County	646, 770	✓✓	
Steve Pilcher	MT. Dept. of Health, Env. Sci.	118	✓	
Walter Steingruber	SELF	646	✓	
Julie Hacker	Malta Co. Truckers	646		✓
Elmer Flynn	Self	646		✓
Neva Carson	Malta Co. Truckers	646		✓
Tom WESTER	Montana Homequillers	646		X
Mike MONEY	BOZEMAN & GALLATIN CO.	646	✓	
Eric Log	Jul. 1st 79	646	✓	
Randy Thoreson	Consultant - Belgrade, MT.	646	✓	
H. Thomas Lewellyn	Billings	646 118 770		✓
Dennis Rikberg	Billings	118 646		✓
Charles Landman	MEIC	646	X	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

PROPOSED AMENDMENTS TO HB 646, THIRD READING COPY

1. Title, line 7.
Following: "76-3-104,"
Strike: "76-3-201,"
2. Page 4, line 21 through line 19 on page 5.
Following: line 20
Strike: section 3 in its entirety
Renumber: subsequent sections

Ex # 2
agie
3-16-83

Mr. Chairman, members of the committee, my name is Charles Landman. I represent the members of the Montana Environmental Information Center. We appear here today in support of HB 646.

1. What is the problem?

This bill addresses a problem which we are all familiar with. As the table on the front of this sheet indicates, Montana has grown by over 100,000 people since 1960. Most of that population growth has occurred in a relatively few counties in the southern and western parts of the state. FOR EXAMPLE: Ravalli County nearly doubled in population since 1960. Missoula, Flathead, and Gallatin counties have all absorbed large population increases in the last twenty years. Population growth has had, and will in all likelihood continue to have, a disproportionate impact on those counties.

Rapid population growth has profound effects on the social, environmental, and economic fabric--on all aspects of life in affected communities. One result of the population "explosion" has been large-scale subdivision development in those areas. Many local governments and individuals soon realized that unplanned, unreviewed subdivisions were having major adverse impacts on local communities. FOR EXAMPLE: (1) costs for services to people who moved into unplanned developments were often borne not by those who demanded increased county services but by other county residents; (2) traffic patterns, highway access, drainage and runoff, water quantity and quality, and air quality are all adversely impacted by unplanned, unreviewed subdivisions; (3) perhaps most importantly, the basic structure and identity of local communities was often radically altered by the hectic subdivision activity. This is especially true for communities whose economic base is being shifted from a traditional agricultural and timber orientation to one providing services for suburban commuters.

The legislature responded to these concerns in 1973 by enacting a law giving local governments the authority to review subdivisions according to certain criteria which would insure that subdivisions would occur in an orderly manner and would not become a financial burden on the rest of the community.

2. What is wrong with the existing law?

The purpose of subdivision review is to avoid the effects of haphazard, unplanned development, reduce the costs to consumers, and assure that such developments will not become a financial burden on other county residents. The existing law is not working. The law contained a definition of "subdivision" that relied on a certain number of acres, and also had numerous exemptions that were intended to allow flexibility for the "isolated transactions" of people who were not developers of land speculators but who wished to make, for example, an occasional sale or pass land to members of their families. None of these subdivisions are required to go through the review process. As the back of the sheet shows, these exemptions have become the primary means of creating subdivisions in many western Montana counties. They are not reviewed, and many--although certainly not all--possess the undesirable characteristics and have had the effects mentioned earlier.

Subdividers have a great economic incentive to avoid, wherever possible, going through the public review process. The review process adds certain costs to a subdivision. First, are transactional costs of having to prepare documents and go through the review process. Second, certain real costs may be added by the county in an attempt to require that the subdivision will pay the actual costs of the development for county services. FOR EXAMPLE: The county can require, through the review process, that roads in the subdivision be built to certain standards before lots are sold, thus avoiding the situation where the county must come in and improve poorly planned and constructed roads--at the expense of ALL county residents.

Subdividers naturally want to sell land at the lowest possible price. It just makes good business sense for them to avoid public review whenever possible. They realize that a lot of the true costs of unreviewed subdivisions will inevitably be borne by ALL of the county residents--in effect providing a subsidy for those subdivisions. And that is why they will oppose any attempt to revise the existing law which may put more subdivisions into the public review process.

And, there is no incentive for people buying subdivided land to choose reviewed tracts if they know that they can reduce their individual costs and spread the actual costs of increased services around to other members of the community.

I understand that someone stated that there must be something wrong with a law that allows 90% of subdivisions to avoid. What is wrong is that

arts of the law are being used in way never intended, and certain groups of people have economic incentives to continue to avoid the intent of the law.

3. What will HB 646 do to solve the problem?

This bill does NOT change the exemptions that now exist in the Subdivision and Platting Act. This bill does NOT change the acreage definition of a "subdivision".

This bill DOES allow local governments--at their option--to adopt regulations to amend the 20 acre definition and limit the use of the exemptions, thereby putting more subdivisions into the local review process. It would apply ONLY to local governments that want it; local governments that do not want to exercise the option would continue under their existing regulations.

This bill does NOT prevent anyone from subdividing and selling land. It does not prevent a subdivider from making any size lots he wants to. The bill merely says that IF a community wants more subdivisions to go through the public review process and they communicate that desire to their local government, then the local government will have the authority to make some changes which will put more subdivisions into the review process.

Right now, certain counties are feeling major effects of rapid population growth and subdivision development--without being able to review those subdivisions. HB 646 recognizes that certain counties are feeling major impacts, and they should have the ability --if they want to use it--to gain some public review of those developments.

I URGE YOUR CONCURRENCE IN HB 646.

Thank You.

FACTS ABOUT HB 646

Ex #3
agric.
3-16-83

The population figures in the table below reveal that a few counties have absorbed most of the increase in Montana's population since 1960. In fact, the rest of the state, taken as a whole, actually lost population in the period 1960-1980.

HB 646 recognizes:

First, that population growth and subdivision development have had, and in all likelihood will continue to have, a disproportionate impact on the environmental and social structures of a few counties within the state;

Second, that the existing subdivision review provisions are a bare minimum which are not sufficient to allow high growth counties to address the impacts of subdivisions through the review process; and

Third, that subdivision review regulations which are necessary for some counties may not be appropriate for other counties.

	POPULATION			change	% change
	1960	1970	1980	1960-1980	1960-1980
COUNTY					
Missoula	44,663	58,263	76,018	+31,353	+70%
Yellowstone	79,016	87,367	108,035	+29,019	+37%
Flathead	32,965	39,460	51,966	+19,001	+58%
Gallatin	26,045	32,505	42,865	+16,820	+65%
Lewis & Clark	28,006	33,281	43,039	+15,033	+54%
Ravalli	12,341	14,409	22,493	+10,152	+82%
Cascade	73,418	81,804	80,696	+ 7,278	+10%
Lake	13,104	14,445	19,056	+ 5,952	+45%
Sanders	6,880	7,093	8,675	+ 1,795	+26%
SUBTOTAL	316,438	368,627	452,843	+136,403	+43%
Toole	7,904	5,839	5,559	- 2,345	-30%
Meagher	2,616	2,122	2,154	- 462	-18%
Liberty	2,624	2,359	2,329	- 295	-11%
Daniels	3,755	3,083	2,835	- 920	-25%
STATE TOTAL	674,767	694,409	786,690	+111,923	+17%

Subdivision Review & Exemptions

The Subdivision and Platting Act (MCA 76-3-101 et seq) requires local review of "subdivisions" according to certain minimum criteria. A "subdivision" is defines as a division of land creating one or more parcels of less than 20 acres. The purpose of subdivision review is to avoid the adverse effects of haphazard, unplanned development, reduce the costs of development for consumers, and assure that such developments will not become a fiscal burden on other county residents.

The goals of the Act are not being met. In addition to the twenty-acre limit, the Act includes 11 exemptions intended to allow flexibility in the law for the "isolated transactions" of people who are not land developers or speculators, but who wish, for example, to make an occasional sale or pass land to members of their family. *Land divisions creating lots greater than 20 acres, and divisions created through the use of one of the exemptions, are not subject to the review process.*

The exemptions, which were intended to provide relief from regulation in legitimate cases, have evolved as the primary means for subdividing land in Montana (see background information, back page.) For example, over 90% of the land subdivided in Missoula, Ravalli, and Gallatin counties between 1974-1979 was divided under one or another of the exemptions and was not reviewed. Significant impacts on local taxation, roads, schools, police and fire protection, and wild-life habitat have therefore not been addressed through the review process.

Effects of HB 646

HB 646 would allow local governments--at their option--to adopt regulations to amend the 20 acre definition and limit the use of exemptions, thereby placing more subdivisions in the review process.

2. HB 646 would give local governments that want it the flexibility to:

- o take NO ACTION if they so choose;
- o restrict or eliminate the use of exemptions;
- o restrict the 20 acre definition or increase the acreage limitation;
- o experiment with the review process to find more effective ways to accomplish the goals of subdivision review.

3. HB 646 would apply ONLY to those local governments that want the option; local governments that do not want the option would continue under their existing regulations. HB 646 DESERVES YOUR SUPPORT.

Background on the Subdivision & Platting Act

Use of Exemptions

In 1980, the Montana Environmental Information Center conducted a subdivision inventory, assessing the implementation of the Subdivision & Platting Act and the use of exemptions during the period 1974-1979. The final report provided the following information:

	<u>Missoula Co.</u>	<u>Ravalli Co.</u>	<u>Gallatin Co.</u>
Subdivided Acreage	91.3%	92.7%	90.1%
Not Reviewed			
Total Unreviewed Acres	38,923.113	34,455.56	35,469.06
Total Subdivided Acres	42,623.02	37,181.94	39,351.06

During the period 1974-1979, the following exemptions were used most frequently to create the unreviewed acreage reported above:

	<u>Missoula Co.</u>	<u>Ravalli Co.</u>
20-acre Exemption	44%	40%
Occasional Sale	23%	21%
Family Conveyance	14%	8.5%
Other	19%	30%

Problems & Costs

The 1980 Montana Environmental Information Center study also identified the following problems that can arise from unreviewed subdivisions:

Fiscal Impacts

- * **Road Maintenance:** A developer whose plat is reviewed must fund 100% of road construction costs for the subdivision (including bringing existing roads up to county standards). But when subdivisions are *not reviewed, developers need only pay for providing "access roads."* Maintenance and improvement costs are often passed on to the local governments. For example, in 1980, \$443,000--nearly 20% of the total Missoula County road budget--was used to pave roads in four unreviewed subdivisions.
- * **Police & Fire Protection:** Unreviewed developments affect county services such as police and fire protection. Rural fire departments, usually volunteer, must serve new homes that are often widely dispersed. In rapidly growing areas, some fire departments have to consider changing to a paid staff with better equipment. These factors mean more public costs for serving new developments.

Reduction of Agricultural Land

- * A large amount of unreviewed rural subdivision activity occurs on land that is of prime value to Montana's number one industry--agriculture. In Ravalli County, for example, with 6 of 8 townships inventoried, 48% of prime agricultural land has been subdivided. In Missoula County, 48% of prime agricultural land and 33% of secondary agricultural land has been subdivided.

HB 646 would give local governments who want to exercise it the flexibility to reduce the problems resulting from unreviewed subdivisions.

HB 646 DESERVES YOUR SUPPORT.



MISSOULA COUNTY

Ex #4

BOARD OF COUNTY COMMISSIONERS

• Missoula County Courthouse • Missoula, Montana 59802

(406) 721-1000

March 16, 1983

BCC-83-159

TO: SENATE COMMITTEE ON AGRICULTURE

FROM: Missoula County Commissioners

RE: H.B. 646

MEMBERS OF THE COMMITTEE:

The Missoula County Commissioners support H.B. 646 and urge your favorable recommendation.

In every session of the Legislature since the enactment of the original Subdivision and Platting Act in 1971, there have been amendments offered to strengthen as well as relax the controls over the subdivision of land. This experience leads to one inescapable conclusion: The problems with land subdivisions in rural agricultural counties are different than those in the urbanized, developing counties. Urban counties faced with the pressures of rapid development and the sudden demand on police, fire, schools, and road maintenance services need the means to ensure that development occurs in an orderly fashion. Rural counties whose predominant land use is farming and ranching support the exemptions from subdivision plat requirements to ensure that the farmers and ranchers can divide land for collateral and estate planning. Different types of problems require different solutions.

H.B. 646 would allow each county government to seek the best solutions to its unique problems.

Why is the current Subdivision Act inadequate to meet the needs of urbanized and rapidly developing counties? The exemptions allowing certain divisions of land to be filed without complying with subdivision standards result in subdivision-like developments with all the impacts of large new developments and none of the needed public improvements like sewer, fire, water, and roads.

The problem is best illustrated by an example:

There were two ranches northwest of Missoula which were sold to a Gene Anderson in 1977 and 1978.

In 1978, Mr. Anderson filed two surveys dividing the ranches into 25 twenty-acre tracts (using the exemption in M.C.A. 76-3-104) and named them The Goodan-Keil Estates.

Mr. Anderson subsequently sold most of the twenty-acre tracts to people with the assurance that they could further divide the property by using the family gift and occasional sale exemptions. He filed restrictive covenants in 1978 allowing each tract to be divided into lots at least 4 acres in size. As he sold the twenty-acre tracts, he promised to build the road system, the central water system and the central sewer system.

Today, there are approximately 84 separate lots. The road is unfinished and sometimes impassable because of its clay content. The water system is in place, but constructed of substandard material and has been repaired twice (during which time half a dozen homes were without water). The sewer system has not been constructed, even though there are two houses dumping raw sewage onto the ground. Recently, the State Department of Health revoked the sanitary approval for eastern lots. The revocation proceedings were at public expense.

Private roadway easements were marked out on the survey for access to the interior lots, but there is no legal access to a public road. The existing access trespasses across State Highway Department right-of-way and private property. This year, the State Highway Department, using public tax dollars, had to relocate the access to accommodate lot buyers who would have been otherwise land locked. The access road onto the county road is still in an extremely dangerous location on a blind corner.

Why couldn't Mr. Anderson be held responsible?

Mr. Anderson filed for bankruptcy in July, 1982. The lot owners relied in good faith on his promises to install the facilities and chose not to pursue any legal remedies. Now there is no hope that the "developer" will carry out his promises. The cost of installing the improvements falls directly on the lot owners and the taxpayers. The underlying contract between Anderson and the ranchers is also in default. If there are insufficient assets in the bankruptcy, the lot purchasers may lose everything.

How could the subdivision law have helped?

Mr. Anderson would have had to provide a financial guarantee that the public improvements would be installed according to minimum specifications.

Who has evaded the Subdivision Act?

Each person used exemptions that they were legally entitled to use.

We cannot penalize the innocent purchaser for redividing his land based on advice and promises of seller.

Furthermore, prosecution of Mr. Anderson is questionable because of the length of time which has passed. By the time the problem becomes noticeable, it is too late to stop it.

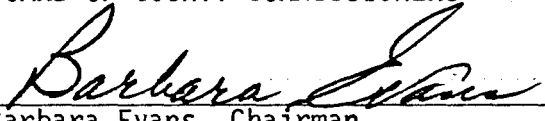
The Goodan-Keil Estates is an example of one of many "subdivisions" created in Missoula County in the past five years.

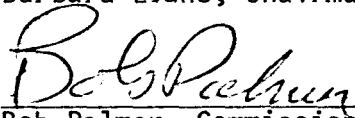
When these "subdivisions" are fully developed, there will be an inevitable demand for public services. Why should the local taxpayers have to pay for these "cheap lots" when developers and lot owners of properly platted subdivisions have contributed their share to the cost of public services? The use of exemptions in urbanized developing counties is unfair to developers who comply with the law as well as the taxpayers who live in those counties.

We ask you to consider the inequities in the current subdivision law and to grant local governments the authority to solve the problem with the help of the citizens and participants at the local level.

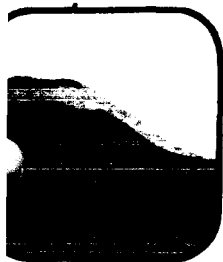
Sincerely,

BOARD OF COUNTY COMMISSIONERS


Barbara Evans, Chairman


Bob Palmer, Commissioner

Not Available for Signature
Ann Mary Dussault, Commissioner



**BOZEMAN
CITY COUNTY
PLANNING BOARD**

411 EAST MAIN
P.O. BOX 640, BOZEMAN, MONTANA, 59715
PHONE: (406) 586-3321

*Ex #6
3-16-83
Agriculture.*

March 15, 1983

Hand Delivered

c/o Mr. Jack Galt
Senate Agriculture Livestock and Irrigation Committee
Capitol Station
Helena, MT 59620

Dear Mr. Chairman:

The purpose of this letter is to solicit your support of House Bill 646 that is to be heard before your committee on March 16, 1983. The City of Bozeman is a first class City and as such is allowed by State statute to extend its zoning jurisdiction out three miles from the City limits. The City of Bozeman and Gallatin County have formed a City-County Planning Board and their jurisdiction may be extended out 4½ miles.

The purpose of the extended jurisdiction is not to further complicate the lives of those residents that live outside of the City of Bozeman but rather to cut the costs of providing services and lessen the impact of uncontrolled growth for both the City of Bozeman and Gallatin County.

Because of the use and abuse of exemptions to the subdivision laws, the following impairments or impacts have been felt by the City of Bozeman:

1. Lots have been created close to the City Limits that do not allow for the logical and economical extension of City Services (i.e. streets, roads, water and sanitary sewer).
2. Lots have been created that are designed in such a manner that they may not be further developed due to the lack of adequate access. Because of their size, the cost of extending municipal services is economically impractical, and the increase in taxes if annexed could be burdensome to the owner. Therefore, these lots ultimately prevent the needed progressive expansion of the City's boundaries.
3. Lots have been created without access to a City or County road.

Mr. Jack Galt
March 15, 1983
Page Two


4. Growth is experienced in areas that severely impact existing facilities and services. Although subdivisions are discouraged in these areas, the growth continues through the use of exemptions. Ultimately, these facilities require increased maintenance and a premature upgrading which again raises the cost to the area's residents.

During the past few years, it has become apparent that the local governments throughout the nation need to become more self-reliant thus controlling their own destiny. House Bill 646 does not eliminate the use of exemptions to the subdivision laws, nor does it change their use, as it exists today. However, it gives the local governing bodies the opportunity to evaluate the growth problems and impacts they have experienced and if needed, take the appropriate action.

The State of Montana has its urban centers as well as its rural communities. These generate different needs as well as experience a wider range of different problems. House Bill 646 would allow the separation of these two different environments thus allowing each to meet their needs.

Again, we ask your support of House Bill 646. Thank you for this opportunity to present our request.

Sincerely,


BOZEMAN CITY-COUNTY PLANNING BOARD


GALLATIN COUNTY COMMISSION


CITY OF BOZEMAN

MM:lv

March 16, 1983

Mr. Chairman and Members of the Senate Agriculture Committee:

For the record I am Walter Steingruber of Willow Creek, Montana. I am part-owner and operator of the ranch where I was born 56 years ago.

I have seen Southwestern Montana grow from a strictly rural agricultural land to a disheveled conglomeration of housing developments that spawn weeds, erosion, unsightliness, higher taxes, problems for small school boards, and county roads, dogs and last but not least people, which tend to disregard neighbors, fences, their land, other people's land, etc.

I feel HB 646 will help alleviate some of these problems and I urge your support.

Respectfully Yours,
Walter A. Steingruber

Ex #8
3-16-83
agie

McCoy CATTLE COMPANY

Dennis & Beverly McCoy
1500 OLD STAGE ROAD ☆ DILLON, MONTANA 59725

Re: House Bill #646 Sponsored by Lory and Others
48th Legislature, State of Montana

Gentlemen:

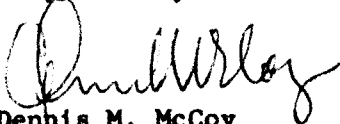
I am a rancher in Beaverhead County and a member of the Beaverhead County Planning Board and a Supervisor for the Beaverhead Soil Conservation District. The views I am expressing are my own, however, I draw from experience serving on these Committees and others in our area.

I am strongly in favor of House Bill #646 for many reasons, the least of which are the problems I see surfacing in our area due to the uncontrolled subdividing of agriculture land into 20 acre parcels. These divisions take place in this size parcel primarily to evade the process of review and planning which would take place were the parcels smaller. There are currently 2 ranches in my area which have divided into 20 acre parcels and the resulting problems, to mention a few, are as follows:

- 1) The homeowners on the 20 acre parcels are unable to manage the land so we are getting 20 acre weed patches which are allowing the spread of weeds to the adjacent agriculture property.
- 2) In cases where the land was irrigated ground, we are realizing water distribution problems, restrictions in irrigation ditches as they pass through these 20 acre parcels and problems collecting the maintenance fees from these land owners that are not continuing to use water out of our main ditches and canals.
- 3) The parcels are often not fenced or the fences are allowed to be damaged causing stock nuisance and control problems.
- 4) With the spread of housing into the rural areas we are experiencing school bus problems causing the need for more buses, longer rides for the children and more expense to the school districts.
- 5) The roads in these divisions are often inadequate and not maintained with no real provisions for future upgrading or maintenance.
- 6) There have been instances where owners of 20 acre parcels realize they have too much land and they, in turn, want to divide it further compounding many of the above mentioned problems.

In conclusion I would like to say that I am not against the subdividing of land, I just feel it is important to offer the opportunity to control how the land is subdivided so it benefits everyone in the long run. I think it is important that the landowner retain his right as a landowner but I also feel it is important that the land be used efficiently and that the safety of the people occupying it, the rights of the adjacent landowners and the taxpayers who will be paying for the government services all be considered in the division of our land.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Dennis M. McCoy".

Dennis M. McCoy

Ex #9
agric
3-16-83

WRITTEN TESTIMONY IN SUPPORT OF HB 646
AND HB 770

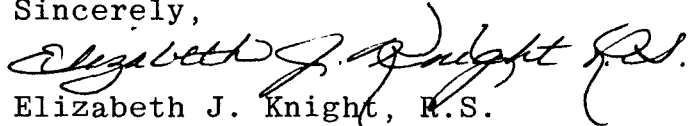
By: Elizabeth J. Knight, R.S.

Mr. Chairman and committee members my name is Elizabeth Knight. I am currently employed as the Jefferson-Broadwater County Sanitarian. I appreciate the opportunity to submit written testimony in support of HB 646 and HB 770.

Jefferson County is one of the fastest growing counties in the state. We've seen a phenomenal amount of unplanned, unanticipated growth in a relatively short period of time. The growth has resulted in an increased demand on already over burdened county services. We've found that the increase tax revenues generated by the change to residential lots has in no way kept pace with the cost of providing services such as road maintenance, emergency services, law enforcement, and schools. HB 646 and HB 770 would provide a mechanism for eliminating the loopholes now existing in the law which would in turn allow for local government to better manage local planning and resources.

I urge this committee to recommend a do pass on HB 646 and HB 770.

Sincerely,



Elizabeth J. Knight, R.S.
Jefferson-Broadwater County Sanitarian

E 2 #10
agric

WITNESS STATEMENT

Name Julie Koeber Date 3-16-83
Address Star Rte - Bonner Support ?
Representing Missoula Co. Truholders Oppose ? X
Which Bill ? HB 646 Amend ?

Comments:

1. Build a bigger bureaucracy
2. Tighten the controls on the landowner
3. Pass the cost of buying land on to the consumer
4. If the subdivider wants to sell land, he will do a good job.
5. Please kill this bill!!

For your information:
There are 21.8 people in the planning dept.
in Missoula Co.
Co. Surveyors budget includes \$70,000 for subdivision review.
Please leave prepared statement with the committee secretary.
Health Dept. spends undetermined amt. on subdivision review.

Missoula Co. Taxpayers can't afford the costs of this bill.

EN #11
3-16-83
Agric.

646

WITNESS STATEMENT

Name Karl Cahaon Date 3/16/83
Address Star Rte - Bonner Co (Idaho) Support ?
Representing Missoula Co. Freeholders Oppose ? X
Which Bill ? 646 Amend ?

Comments:

- I - Increases cost by increasing planning dept.
- II It will request us to death if it is done by resolution. We will in Idaho Co. ~~we will~~ have such strict regs - we could not live on our land. Every piece of land will come under review in Missoula Co - That's a fact.

Please leave prepared statement with the committee secretary.

DESCRIPTION	FTE	RATE	ANNUAL
CURATOR	0.75	6.84	10670.00
MUSEUM DIRECTOR	0.25	9.86	5127.00
CURATOR	0.25	6.80	3557.00
WORK STUDY	0.01	10.00	250.00
FRINGE BENEFIT			10616.00
TOTALS	3.01		59017.00

EXTENSION FUND 15

EXTENSION SERVICE

EDUCATION ASST	1.00	7.86	16349.00
SECRETARY III	1.00	6.72	13978.00
HORTICULTURIST	0.75	7.86	12262.00
EXTENSION AGT	0.60	7.24	9036.00
EXTENSION AGT	1.00	7.24	15060.00
SECRETARY II	1.00	5.67	11794.00
CHIEF EXTENSION	1.00	7.24	15060.00
FRINGE BENEFIT			17491.00
TOTALS	6.35		111030.00

COUNTY PLANNING FUND 16

PLANNING-ADMIN

PLANNER II	1.00	10.08	20966.00
GRAPHIC ARTIST	1.00	9.14	19011.00
PLANNER II	1.00	9.72	20218.00
PLANNER II	1.00	10.69	22235.00
ASSIST PLANNER	1.00	14.17	29474.00
PLANNING DIR	1.00	15.39	32011.00
PLANNER II	1.00	10.30	21424.00
SECRETARY III	1.00	5.71	11877.00
ADMIN ASST I	1.00	8.00	16640.00
FRINGE BENEFIT			18882.00
TOTALS	8.00		212738.00

COUNTY PLANNING CONTINUED

DESCRIPTION	FTE	RATE	ANNUAL
=====			
PLANNER I	1.00	8.95	18616.00
PLANNER I	1.00	9.84	20467.00
ZONING DIRECTOR	1.00	11.37	23650.00
PLANNER I	1.00	9.40	19552.00
BUILDING OFF	1.00	10.99	22859.00
ELECT INSPECTOR	1.00	10.54	21923.00
BLD INSPECTOR	1.00	9.56	19885.00
BLD INSPECTOR	1.00	9.82	20426.00
SECRETARY II	1.00	6.22	12938.00
PLANNER III	0.81	11.48	19286.00
PLANNER II	1.00	9.72	20218.00
PLANNER I	1.00	9.01	18741.00
SECRETARY I	1.00	6.15	12792.00
PLANNING TECH I	1.00	5.31	11066.00
PLANNING TECH I	1.00	5.31	11066.00
FRINGE BENEFIT			85891.00
=====			
TOTALS	21.81		545214.00
=====			

COUNTY PLANNING
FUND 16
FTE/SALARY/
FRINGE BENEFIT
TOTALS

21.81

545214.00

DISTRICT COURT FUND 17

CLERK OF COURT

=====			
CLERK I	1.00	4.56	9492.00
CLERK I	1.00	4.56	9487.00
DISTRICT COURT	1.00	8.01	16668.00
DISTRICT COURT	1.00	8.16	16972.00
CLERK I	1.00	4.71	9814.00
DISTRICT COURT	1.00	6.58	13698.00
CH DEP CLERK	1.00	10.05	20913.00
CLERK OF COURT	1.00	11.14	23171.00
CLERK I	1.00	4.56	9493.00

E R # 12

agie
3-16-83

WITNESS STATEMENT

Name Robert S. Custer Date 3/16/83
Address PO Box 4112 Support ?
Representing Montana Assoc. Registered Land Surveyors Oppose ? X
Which Bill ? 646 Amend ?

Comments:

Surveyors are the professionals who must interpret the law for the private land owner and we feel that "Local definition of Subdivisions" will result in 56 separate state laws. we also feel that local authority is too susceptible to special interest groups.

Please leave prepared statement with the committee secretary.

E4#13
3-16-83

AGAINST HOUSE BILL 646

Hearing March 16, 1983

Senate Agriculture, Livestock, and Irrigation Committee

1:P.M. Room 415

Mr. Jack E. Galt, Chairman
And Members of the Committee

We, the following undersigned land owners, living within the boundaries of the State of Montana, do hereby request you and your Colleagues to vote for the DEFEAT of HOUSE BILL 646.

We believe that allowing local governing bodies to delete exemptions at will is not in the best interests of landowners of our State.

The Subdivision and Platting Act and the regulations adopted from its passage were designed to bring uniformity to surveys and exemptions throughout the State. House Bill 646 would defeat that purpose.

Thank you,

Deane W. Rice

5776 Shavian Ct. Helena

Stephen Rice

6850 Green Meadows A. Helena

Stephen C. Joppa

7993 Hwy 12 W HELENA

William A. Walker

1527 Jerome Place - Helena

Gregg D. Hahn

2813 Melody Rd

Nesley A. Stillins

812 Glenview Helena

Bertil H. Larson

RT2 BOX 221F, HELENA, MT.

Norm W. Johnson

342 CLANCY ST. HELENA, MT.

Curtis S. Brandon

1603 Ohio Helena MT

John B. Cooper

1510 Ohio Helena MT.

Heidi M. Quill

2778 Spokane Creek Rd - East Helena MT

W. A. Riehl

2778 Spokane Cr. Rd E. H. MT.

Susan M. Getz

760 Sierra Rd. W. Helena, MT

Clarence D. Ditz

760 Sierra Rd. W. Helena MT

AGAINST HOUSE BILL 646
Hearing March 16, 1983
Senate Agriculture, Livestock, and Irrigation Committee
1:P.M. Room 415

James E. Galt, Chairman
Members of the Committee

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1. We believe that allowing local governing bodies to delete exemptions at will is not in the best interests of landowners of our State.

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Thank you,

<u>Robert A. Strainer Wylie Dr</u>	<u>Eric M. Wolfson</u> Canyon Creek Mt.
<u>Sharon L. Strainer Wylie Dr</u>	<u>R. H. Moss</u> Wiches
<u>Ernest Leafe 3335 Wylie Dr</u>	
<u>Margaret Leafe 3335 Wylie Dr</u>	
<u>John V. Wilkin 3363 Wylie Dr.</u>	
<u>Tommy M. Faubain 3363 Wylie Dr.</u>	
<u>Paul G. Buchi 3365 Wylie Dr.</u>	
<u>Cynthia Buchi</u>	
<u>Stephen M. Yuric 3055 Howard Rd</u>	
<u>Mary M. Yuric 3055 Howard Rd</u>	
<u>Mary K. Yuric 3034 Howard Rd</u>	
<u>Rocky Yuric 3034 Howard Rd.</u>	
<u>John Yuric 3032 Howard Rd.</u>	

AGAINST HOUSE BILL 646
Hearing March 16, 1983
Senate Agriculture, Livestock, and Irrigation Committee
1:P.M. Room 415

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And Members of the Committee

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Thank you,

Larry W. Galt

1508 HARRISON, HELENA

Pat Foley

297 Thomas St., Helena

Patricia Foley

297 Thomas St.

Mrs. Patricia Reis

6850 Green Meadows Dr., Helena

Dean L Reynolds

7863 Applegate Dr Helena

Russell C. Reynolds

270 Prairie P.D.

Erinice Stott

#1 Box 208 Fairfield Mont

Larry W. Galt

#1 Box 208 Fairfield Mont

Mr. Jack E. Galt, Chairman
And Members of the Committee

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Thank you,

John H. Synners

Wes Synners

T.E. Anderson Bigfork

Calvin Wardell Helena

Eunice Wardell Helena

Babara L. Wardell Helena

John Wardell Helena

Ed J. Soukhnick Helena

L. Soukhnick

Kenneth D. Otto (Bozeman)

Joey A. Crawford

Shirley L. Crawford

Ernest L. Price

Rebecca L. Price

AGAINST HOUSE BILL 646
Hearing March 16, 1983
Senate Agriculture, Livestock, and Irrigation Committee
1:P.M. Room 415

Mr. Jack E. Galt, Chairman
And Members of the Committee

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Thank you,

Helen Bowens

2224 Lockey, Helena

Lorena Latta

Highway 12 west, Helena

Larry Palmer

419 North Ewing, Helena

Scott

612 TOUCHSTONE CT. - HELENA

Daniel J. Emlen

1114 Knight, Helena

Thomas J. Dornme

1531 Festic Helena 59601

Robert L. Harrell

806 3rd Street

Ronald L. Hefke

11 John G. Mine Rd

Edmond D. Dordman

4506 Halberg Dr

Tom A. Longman

210 S. California

Chari L. Longman

5515 York Road.

Deeplea Reager

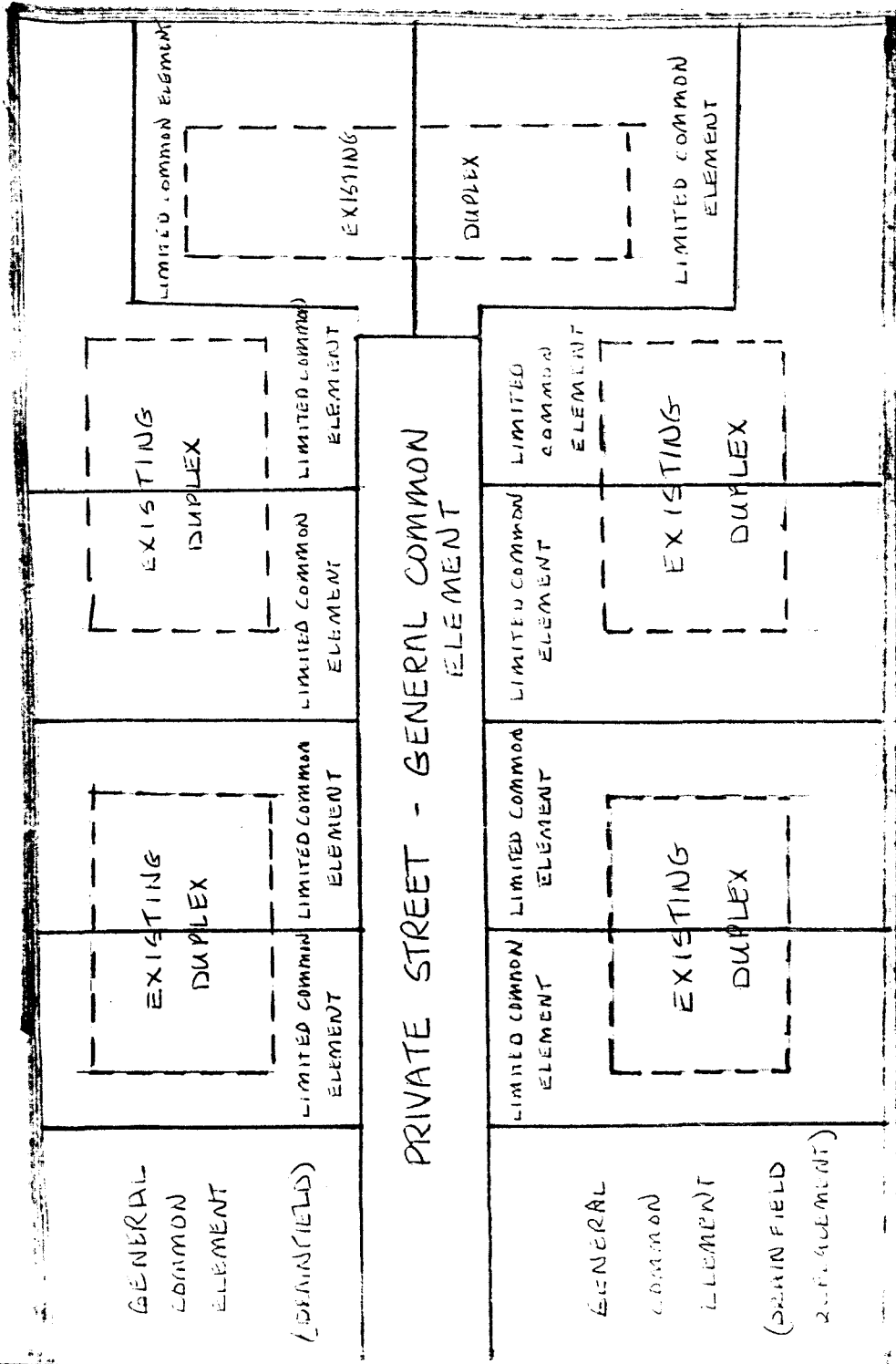
117 Greenwood Dr.

Betty Jane Stromberg

1020 Hauer Blvd

CONDOMINIUM CONVERSION

Er #14
Agric.
3-16-83



MISSOULA COUNTY

BOARD OF COUNTY COMMISSIONERS

• Missoula County Courthouse • Missoula, Montana 59802
(406) 721-5700

March 16, 1983
BCC-83-160

TO: Senate Committee on Agriculture

FROM: Missoula County Commissioners

RE: H.B. 770, to clarify reviewability of condominiums under the Montana Subdivision and Platting Act and the Montana Sanitation in Subdivisions Act

Members of the Committee:

We strongly support H.B. 770, to clarify the reviewability of condominiums under the Montana Subdivision and Platting Act and the Sanitation in Subdivisions Act and urge your favorable consideration.

Numerous amendments and interpretations of the Subdivision Act and the Sanitation Act have resulted in confusion for both developers and local governments. The existing statutes define a "subdivision" to include "any condominium." MCA 76-3-103(15) and 76-4-102(7). Subsequent provisions in the same chapters appear to exempt certain types of condominiums:

76-3-202. Exemption for structures on complying subdivided lands. Where required by this chapter, when the land upon which an improvement is situated has been subdivided in compliance with this chapter, the sale, rent, lease, or other conveyance of one or more parts of a building, structure, or other improvement situated on one or more parcels of land is not a division of land and is not subject to the terms of this chapter.

76-3-203. Exemption for certain condominiums. Condominiums constructed on land divided in compliance with this chapter are exempt from the provisions of this chapter.

76-3-204. Exemption for conveyances of one or more parts of a structure or improvement. The sale, rent, lease, or other conveyance of one or more parts of a building, structure, or

other improvement situated on one or more parcels of land is not a division of land, as that term is defined in this chapter, and is not subject to the requirements of the chapter.

MCA 76-3-203 presents an additional question. We do not know whether this refers to condominium projects which have gone through subdivision review and approval or if it also refers to condominiums constructed on land divided by using exemptions to the Subdivision and Platting Act. Because there is no definition for a "condominium" in the Subdivision Act, the common meaning suggests that the term may also include the sale or other conveyance of one or more parts of a building, which is specifically exempted from review and approval under MCA 76-3-204.

Thus, the Subdivision Act appears to include condominiums as reviewable subdivisions under the definition section, but then appears to exempt condominiums from review and approval in later sections.

In the last year, the Montana Attorney General has issued three opinions relative to condominiums. These interpretations, which are regarded as law until otherwise overruled by a court of record, conclude:

1. Condominiums are "subdivisions" and are, therefore, subject to review for sanitation requirements by the Department of Health and Environmental Sciences. 39 A.G. Op. 29.
2. Even condominiums constructed on land divided by using exemptions or divided prior to the enactment of the Sanitation in Subdivision Act are subject to review by the Health Department. 39 A.G. Op. 19.
3. The definition of a "subdivision" in MCA 76-3-103 includes "any condominium" as a separate class of divisions of land. 39 A.G. Op. 14.
4. MCA 76-3-204, which exempts the sale, rent, lease, or other conveyance of one or more parts of a building or structure, does not apply to condominiums. 39 A.G. Op. 28.
5. Conversion of existing rental occupancy apartment house or office buildings to individual condominium ownership are exempted from the requirements of the Subdivision and Platting Act by section MCA 76-3-204.

We have no quarrel with these interpretations. New condominium developments should be subject to subdivision review and approval under the Platting Act and should certainly be required to comply with sanitation requirements. However, the statutes need to be clarified.

Special consideration needs to be given to the conversion of existing structures into condominium units. Typically, structures which are converted to condominiums are apartment houses and office buildings. Conversion of the ownership status is not likely to create a new impact, as would a new development. As a result, there does not appear to be the same need to review and approve these types of developments. Any specific design standards could be addressed through zoning. In other words, if the project can comply with the existing zoning, then it should be exempt from review and approval.

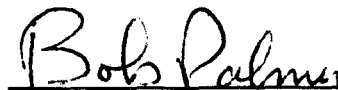
All condominium projects must comply with the Unit Ownership Act, MCA 70-23-101, et. seq. Under that act, it is possible to convert groups of buildings and provide a separate parcel of land with each unit. Title to the parcel is actually owned in common by a homeowners association, but the use of the parcel is limited to the owner of the unit. Even though this design separates or divides land into a different form of "ownership" (in the sense of use rights), the unity of title still falls outside the definition of a subdivision of land. Again, it seems appropriate to exempt these types of conversions from review and approval, but to require that development of such a project comply with applicable zoning requirements so that any design impacts can be addressed.

We do not believe H.B. 770 is a radical change from the way in which the law is now being interpreted. However, to determine what the state of the law is, several sources have to be read. To simplify matters, it is in everyone's best interest to incorporate these interpretations into one statute.

BOARD OF COUNTY COMMISSIONERS



Barbara Evans, Chairman



Bob Palmer, Commissioner

Not Available for Signature

Ann Mary Dussault, Commissioner

Amend House Bill, 70, third reading bill. #17
EX #1/2

1. Section 3, page 3, line 19

Following: "SYSTEM"

Delete: "IN AN EXISTING BUILDING TO

BE CONVERTED INTO"

Insert: " to serve a parcel of land to "
be built upon or converted for

3-16-83

Aggie

EX #17
3-16-83
Agriculture

TESTIMONY IN SUPPORT OF H.B. 118

My name is Steve Pilcher, Chief of the Water Quality Bureau of the Montana Department of Health and Environmental Sciences. I would like to testify in support of H.B. 118. While we recognize that proposing a fee increase is never popular, we feel that such an increase is necessary and justifiable. We hope that the information provided in this testimony and the answers we can provide to your questions will convince you of the same.

The Montana "Sanitation in Subdivision" law was first enacted in 1961 with minor amendments enacted by subsequent legislative sessions. The purpose of the law is to ensure that water supply, sewage disposal and solid waste disposal on lands being subdivided are adequate to protect public health. From 1961 until 1975 subdivision review was performed by the Water Quality Bureau and was supported totally by general fund monies. The 1975 legislature established a review fee of \$15.00 per lot. The fee was increased to \$25.00 by the 1977 session. It was increased to \$30.00 by the 1981 session even though the department had requested an increase to \$40.00/lot. H.B. 118 would increase the maximum allowable fee that could be charged from the current \$30.00 to \$50.00. During this time significant changes have taken place with regard to general fund support to the program. The following chart reflects the general fund support to the program as well as the number of lots reviewed and program staff support for recent years:

	<u>GENERAL FUNDS</u>	<u>LOTS REVIEWED (APPROX.)</u>	<u>PERSONNEL (FTE'S)</u>
FY 1976	\$59,000.00	3,800	4
FY 1977	\$62,000.00	6,000	7.5
FY 1978	\$67,000.00	15,000	8.5
FY 1979	\$67,000.00	14,000	8.5
FY 1980	- 0 -	10,000	8.0
FY 1981	- 0 -	8,000	6.0
FY 1982	- 0 -	6,600	5.0
FY 1983	- 0 -	5,000 est.	4.0

At the end of Fiscal Year 1979 fees that had been received during previous years had created a surplus of \$224,000.00 in an earmarked revenue account. Based on that fact, a decision was made to fund the program solely from earmarked revenue.

Subdivision activity reached a high of approximately 15,000 lots during Fiscal Year 1978 but activity began to drop drastically and along with that reduction came a reduction in program revenue. Even with a corresponding reduction in personnel it was necessary to utilize the reserve to meet program budgetary needs. Such an arrangement ended in November of 1982 when the subdivision program went broke and review responsibility was transferred to the Water Quality Bureau where it now remains.

From the above Table we can see that approximately 1,200 - 1,300 lots can be reviewed for each FTE in the program. Using this information and a projection that subdivision submittals will remain at the same level as the current year, we have proposed a budget of approximately \$230,000.00 per year of the

biennium. This would support a program staff of 4.0 FTE's with approximately \$65,000.00 per year being distributed to counties which can assist us in subdivision review.

After considerable calculation based on the number of minor and major subdivisions and trailer court lots that we expect to receive for review, the department found that an increase in review fees to \$50.00 was necessary. Mr. Ray Hoffman, Administrator of our Financial Management Division, who generated those figures is here today and could answer specific questions that you might have.

As previously mentioned, the subdivision program went broke in November of 1982. H.B. 95, approved by the current session of the legislature, provided a supplemental appropriation of \$58,000.00 to fund the program until June 30, 1983. The passage of H.B. 118 with an immediate effective date will allow us to meet our responsibilities under the Montana Sanitation in Subdivision Act. During the next year we will be reviewing the program in response to H.J.R. 20 to be sure that the rules agree with legislative intent.

E 2 #18
3-16-83
A.G.R.C.

Fees! Fees! Fees!

**Local Government Increases Fees To
Raise Additional Revenue!**

We Think The Consumer Should Know!

Below is a list of fee increases that local government has imposed in the last 2 years upon the consumer buying a new home in the Billings area.

	Increase
Building Permit Fee	55%
Plumbing Permit Fee	36%
Heating Permit Fee	-0-
Electrical Permit Fee	-0-
Sewer Permit Fee	23.3%
Street Permit Fee	50%
Water Permit Fee	100%
Right-of-way Permit Fee	100%
Sidewalk Permit Fee	361%
Driveway Approach Permit Fee	100%
Plat Fee	600%
Subdivision Fee	1,000%
State Dept. Health Fee	1,000%

Other Fees	City Increase	County Increase
Zone Change	100%	180%
Special Review	167%	100%
Variance	100%	67%
P.U.D.	100%	180%
Preliminary Plat		200%
Minor Plat		200%

On an average home in the Billings area these permits and fees could now cost you between \$750 and \$1200. We feel that this is excessive.

***Make Your Concern Known To Your
Local Council Person.***

Home Builder's Assn. of Billings

TABLE 14

SPECIAL FEES AND CHARGES

ITEM	OLD	EXISTING	EXISTING	EFF
	EXISTING	PROPOSED	PROPOSED	11-1-82
	(\$)	(\$)	(\$)	
(1) Application for enlargement of the sanitary sewer design area of the city.....	35.00		39.00	500.00
(2) Application for extension of the sanitary sewer system of the city.....	50.00		56.00	
(3) Application for introduction of sanitary sewage service to a previously unserved tract or parcel of land which does not require an extension of the sewer system.....	15.00		17.00	←
(4) Application for sanitary sewer service line installation permits:				
(a) Domestic users permit.....	20.00		22.00	
(b) Major and significant industrial users permit.....	500.00		560.00	
(c) Minor industrial users permit....	50.00		56.00	
(5) Special Agreements.....	75.00		84.00	
(6) Lateral Sewer Construction Fee (\$/sq. ft.).....	0.0800		0.0900	
(7) Trunk Sewer Construction Fee (\$/sq. ft.).....	0.0225		0.0260	
(8) Septage Disposal Permit Fee				
(a) First 2,000 gallons or any portion thereof.....	10.00		12.00	
(b) Each additional 1,000 gallons or any portion thereof.....	5.00		6.00	

*NOTE: Reflects proposed 12% increase.

(9) water hookup fee (1/4" (4)) = 5⁰⁰ / Front Feet.
~~Send for PDD~~
~~\$3.15 for prints on~~
~~then for study~~

Effective: January 1, 1983

P R I C E L I S T

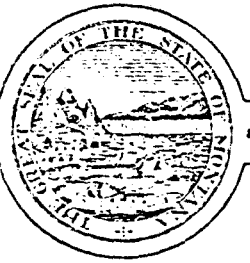
County:	Zone Change	\$280.00
	Special Exception	150.00 Residential 280.00 Other
	Variance	150.00 Residential 190.00 Other
	Planned Development	280.00
	Preliminary Plat	375.00 or 9.50 <u>per lot</u> whichever is greater
	Final Major Plat	260.00 or 8.50 <u>per lot</u> whichever is greater
	Minor Plat	150.00
	Extension of Preliminary Plat Approval	50.00

City:	Zone Change	200.00
	Special Review	200.00
	Variance	150.00
	Planned Development	200.00
	Preliminary Plat	675.00 or 16.90 <u>per lot</u> whichever is greater
	Final Major Plat	260.00 or 8.50 <u>per lot</u> whichever is greater
	Minor Plat	250.00
	Extensions of Preliminary Plat Approval	50.00

OVER

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
SUBDIVISION BUREAU

E2 #19 0440
3-16-83
A9ric



TED SCHWINDEN, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

(406) 449-3945

HELENA, MONTANA 59620

June 8, 1981

RECEIVED
AUG 07 1981
CBPP

TO : Glen Leavitt

FROM : John J. Drynan, M.D. 10

SUBJECT: Budget Amendment Authorization to Expand the Subdivision Bureau Staff from 4 FTEs to 5 FTEs

I am writing this to expand on my memo of May 14, 1981. In the May 14 memo I pointed out that if the staff was reduced to four FTEs there was a real possibility of exceeding the 60 day review time limit set down by law.

I will now present some figures to support my claim. Enclosure 1 shows the staffing pattern and workload since the Subdivision Bureau was created.

Enclosure 2 shows a breakdown of the work received on a per day and per technical person basis. The bureau is currently receiving 1.36 submittals per technical person per day. If the staff is cut to 4 FTEs the workload will reach 2.8 submittals per person per day in FY 82 and jump to 3.5 in FY 83.

It is currently taking the staff an average of 1 month to perform a subdivision review. If the submittals per person doubles, we will be taking an average of 2 months for the review. I emphasize the fact that the review times are averages. During the building season when the workload goes up it takes in excess of a month and during the winter when the workload goes down, the review time drops off.

I believe that it is almost a certainty that during the building season the Subdivision Bureau will not be able to meet the 60 day time limit. If the work picks up as expected, it is very likely that they will exceed the time limit most or all of the time.

The subdivision review business is not the type of work that we can hire part-time people to perform. It takes at least a year to train someone to do the work. We must therefore have a full-time staff that can handle the peak loads.

With 5 FTEs we should be able to keep up with the work during FY 82. Fiscal year 83 is a question mark. If the workload increases as expected, it may be very difficult to keep up.

We do have the necessary money to pay for 5 FTEs.

I therefore request your favorable consideration of this proposal.

JJD/EWC/jg

Enclosures



STATE OF MONTANA
OFFICE OF BUDGET AND PROGRAM PLANNING
OPERATIONAL PLAN/BUDGET
AMENDMENT

EXPLANATION/JUSTIFICATION
(SEE REVERSE FOR INSTRUCTIONS)

Agency
Request No.

2-20
12-02

Page

of

CODE

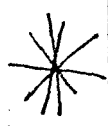
NAME

AGENCY

001

Department of Health & Environmental Sciences

THE INFORMATION FOLLOWING IS TO SUPPORT THE ATTACHED OPERATIONAL PLAN/BUDGET AMENDMENT REQUEST

- Aug-81
- The Subdivision Bureau is currently authorized 4 FTEs. Unless the staff is increased by 1 FTE, it is very likely that the bureau will violate the 60 day review time limit.
 - The primary additional service to be realized is a quicker subdivision review. With 4 FTEs subdivision review will likely take in excess of 60 days with 5 FTEs, the review time will be cut to around 45 days.
 - The law requires Department of Health and Environmental Sciences' approval of all subdivisions; the responsibility cannot be delegated.
 - The Legislature recommended that the Subdivision Bureau operate with a staff commensurate in size with the revenue generated from review fees. The legislative fiscal analyst said that the fees would fund 5 FTEs. The Department can show that adequate fees are available to fund a staff of 5 FTEs.
 - The Subdivision Bureau is totally funded by earmarked revenue generated from subdivisions' review fees. No general fund money is in the program.
 - The length of review will partially determine the effectiveness of the addition of the FTE. The bureau's workload is a variable and therefore must be factored into the actual review time required.
- 

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ANNUAL RATE	STATUS MSGE

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— 1225812 —

1891010
1892400 01/1961

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180170V ZCF:22

11-617 A071081
0122581

24

21,896 A071081

1

[illegible]

1. The first group of people who are not in the labor force are those who are not in the labor force because they are not in the labor force.

[illegible]

PROGRAM SUMMARY

JRR	VAC	FTE	.00
JRR	VAC	FTE	.00

POSITIONS
PAYEE

CLASSIFICATION PROGRAM

POSITIONS 13-50

JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS
BOULDER, MONTANA 59632

Exhibit # 20
3-16-83
AG-12

Glen A. Stevens
Whitehall

Delbert M. Bullock, Chairman
Basin

Douglas K. Schmitz
Jefferson City

WRITTEN TESTIMONY IN SUPPORT OF HB 118,
HB 646, HB 770

By: Delbert Bullock

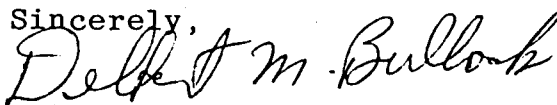
Mr. Chairman and committee members, my name is Delbert Bullock. I am chairman of the Jefferson County Commissioners. I am taking this opportunity to submit written testimony in support of HB 118, HB 646, HB 770, all dealing with subdivisions.

Jefferson County is one of the fastest growing counties in the state and has experienced much rapid unplanned growth. The residential development has in no way increased the tax base in a sufficient manner to provide for services the rural residential subdivision units demand, including, but not limited to, road maintenance, emergency services, and schools. By closing the existing loopholes in the Subdivision and Platting Act through HB 646, it will allow us to work toward planned developments and and provide more effective planning for county residents and county resources.

I would also like to indicate my support for HB 118 which allows for increasing the current subdivision review fees from thirty to fifty dollars. I believe the sanitation review of subdivisions to be essential to the county. The current problems in financing that review indicate the need for a fee increase and additional support of the program.

HB 770, which deals with condominiums is of special interest to me as the county is currently experiencing it's first condominium development. The bill will clarify which condominiums are reviewable under both the "Subdivision and Platting Act" and "Sanitation in Subdivisions Act", and once again allow us to assure that the developments will not adversely affect the public health or welfare.

I urge this committee to recommend a do pass on HB 118, HB 646, HB 770 which will allow those of us with the burden of working with and enforcing subdivision laws the ability to do so in a far more effective way. Thank you.

Sincerely,

Delbert Bullock, Chairman
Jefferson County

Ex #21
3-16-83
Agric.

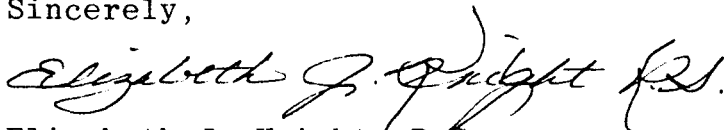
WRITTEN TESTIMONY IN SUPPORT OF HB 118

By: Elizabeth J. Knight, R.S.

Mr. Chairman and committee members, my name is Elizabeth Knight. I am currently employed as the Jefferson-Broadwater County Sanitarian and am president of the Montana Environmental Health Association. The Association and I appreciate the opportunity to submit written testimony in support of HB 118 which allows for an increase in lot fees charged by the state for services rendered in the review of subdivisions. It should be evident in view of recent changes in the subdivision review process that the current thirty dollar review fee is in no way adequate to cover actual review costs.

We therefore urge this committee to recommend a do pass on HB 118 for a subdivision review fee increase.

Sincerely,



Elizabeth J. Knight R.S.
Jefferson-Broadwater County Sanitarian
Box 622
Boulder, MT 59632

EJK/bg