

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on March 22, 1995,
at 3:00 PM.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Larry J. Tveit, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. William S. Crismore (R)
Sen. Mike Foster (R)
Sen. Thomas F. Keating (R)
Sen. Ken Miller (R)
Sen. Vivian M. Brooke (D)
Sen. B.F. "Chris" Christiaens (D)
Sen. Jeff Weldon (D)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Michael Kakuk, Environmental Quality Council
Theda Rossberg, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: None
Executive Action: HB 473

{Tape: 1; Side: A}

EXECUTIVE ACTION ON HB 473

CHAIRMAN GROSFIELD announced that additional written testimony
had been submitted on HB 473, and would be included in the
hearing record.

Motion: SEN. FOSTER MOVED TO ADOPT AMENDMENTS NO. hb047302.amk
AS CONTAINED IN EXHIBIT 1.

Discussion:

REP. DICK KNOX, HD 93, Winifred explained the amendments to the committee members. He said the amendment was proposed by **Susan Abell, Flathead County** which states in amendment no. 5, "Funds in a park fund that exceed \$10,000 as of the effective date of this act must be used for park land acquisition and initial development. Funds in a park fund up to \$10,000 as of the effective date of this act may be used for park maintenance in accordance with a formally adopted park plan."

Vote: MOTION TO ADOPT AMENDMENT NO. hb047302.amk PASSED 7-4 ON A ROLL CALL VOTE.

Motion: SEN. FOSTER MOVED TO ADOPT AMENDMENT NO. hb047301.amk AS CONTAINED IN EXHIBIT 2.

REP. KNOX said the amendment was proposed by **REP. JEANETTE MCKEE** that basically says a park may not be required for a minor subdivision.

John Shontz, Montana Association of Realtors, said a minor subdivision would consist of 5 lots or less and a park to accommodate 5 lots would be pretty small. The bill says that 11% of the land had to be set aside for a park, so 11% of 5 lots would be a pretty small park for the city or county to maintain.

Vote: MOTION TO ADOPT AMENDMENT NO. hb047301.amk PASSED ON A ROLL CALL VOTE OF 7-4.

Motion: CHAIRMAN GROSFIELD MOVED TO ADOPT AMENDMENTS NO. hb047305.amk AS CONTAINED IN EXHIBIT 3.

CHAIR. GROSFIELD said the Discussion Draft includes the proposed amendments. He said he thought there was a lot of misunderstanding about what the language that was struck meant. It says: "Approval by the governing body of a final plat prior to the completion of required improvements and without the provision of the security required under subsection (2) is not an act of a legislative body for the purposes of 2-9-111."

John Shontz said that provision was the least understood provision in the bill. The Realtors Association would support removing that language from the bill. That language says that bonding was required to make sure improvements were made in subdivisions. If the bonds were lifted by the local government before the improvements were made then the individuals on the County Commission would be liable. The reason that was in there was if the bonds were lifted before improvements were made and the developer walked, the county could be liable for the cost of finishing the improvements.

SEN. MACK COLE asked Mr. Shontz for an example of where that could happen. He replied that happened in Carbon County, because of the revolving fund structure of the bonds, all the taxpayers in the county ended up paying for those bonds.

CHAIR. GROSFIELD said rather than lose a bill over an amendment he would withdraw amendment no. 1.

CHAIR. GROSFIELD asked Michael Kakuk, Environmental Quality Council to explain amendment no. 3 that says to insert: "for a major subdivision: (a)." He responded that 76-3-210 of the codes says: "Subdivisions exempted from requirement of an environmental assessment. (1) Subdivisions totally within a master planning area adopted pursuant to chapter 1 wherein zoning regulations... and a long-range development program of public work projects... have been adopted are deemed to be in the public interest and exempt from the requirement of an environmental assessment."

Substitute Motion/Vote: CHAIRMAN GROSFIELD MOVED TO ADOPT AMENDMENT NO. 2.OF AMENDMENTS NO.hbof7305.amk MOTION CARRIED UNANIMOUSLY.

Motion: CHAIRMAN GROSFIELD MOVED TO ADOPT AMENDMENTS 3,4,5,6,7, and 8 OF AMENDMENTS NO.hb047305.amk.

CHAIRMAN GROSFIELD said the change was in doing an EA for a major subdivision which includes, (a), (b), (c), and (d). For a minor subdivision only (b) was included.

Mr. Shontz said no's. 3-8 refers to 76-3-608.

{Tape: 1; Side: B}

He said that would require an environmental assessment for all minor subdivisions. In Yellowstone County it would take about 90 days at a cost of approximately \$1,500 per lot. On Page 6 of the grey bill, adding impacts on local governments that they may not want to address now, including schools. In Jefferson County school districts have attempted to impose impact fees between \$11,000 to \$14,000 per lot. If the property is assessed that fee, it increases property taxes. Because local government had the flexibility now to look at subdivisions, he asked the committee to not consider that set of amendments. If additional requirements were added to local government, they would have to do an environmental assessment.

CHAIRMAN GROSFIELD said his understanding of 76-3-608 was for a review that was required for every subdivision, major or minor, and nothing in the bill changes that. Mr. Shontz suggested adding "except" as described in 76-3-609. He said the word "summary" could have the effect of local governments requiring an environmental assessment on minor subdivisions.

Mr. Kakuk suggested to add after "(2)", "except as provided in 76-3-609(3)," in amendment no. 8.

Substitute Motion/Vote: CHAIRMAN GROSFIELD MOVED TO ADOPT AMENDMENTS NO. 3 - 8 OF AMENDMENTS NO.hbo47305.amk WITH THE CHANGE SUGGESTED BY MR. KAKUK. MOTION CARRIED 7-4.

Motion: CHAIRMAN GROSFIELD MOVED TO ADOPT AMENDMENTS NO. 9-13 OF AMENDMENTS NO.hb047305.amk.

Substitute Motion: SEN. COLE MOVED TO STRIKE LINES 10-19, PAGE 5, AND RENUMBER THE SUBSEQUENT SECTIONS.

CHAIRMAN GROSFIELD said his amendments 9-13 addressed that section. SEN. COLE asked **Mr. Kakuk** what effect removing Lines 10-19 would have on the bill. He answered that removing those lines brings the bill closer to existing law. Mitigation is the heart of the subdivision review process. Currently there was no authorization or no restrictions on how mitigation was handled during the subdivision review process. It was all handled at the local level. Also mitigation had to be justified based upon substantial credible evidence.

CHAIRMAN GROSFIELD asked SEN. COLE if he had talked to anyone about the fiscal note pertaining to those amendments. SEN. COLE responded that leaving those amendments in the bill would create more expense to local governments.

SEN. VIVIAN BROOKE asked SEN. COLE why he proposed striking those amendments. He replied because of the cost to local governments. She asked **Mr. Shontz** what his response was to the amendments.

Mr. Shontz replied in most cases there was a negotiation process that moves forward when development was considered. Current law doesn't require that local governments mitigate a problem. He said CHAIRMAN GROSFIELD'S amendments were good amendments. If governments turn down a subdivision for some reason, the developer has a right to know why.

SEN. JEFF WELDON asked **Richard Weddle, Attorney, Department of Commerce**, what his comments were regarding the mitigation issue. He replied that he was involved in drafting the Subdivision and Platting Act, and had spent a lot of time with local governments in implementing subdivision laws. He also was involved in the legislative process regarding subdivision laws in several sessions.

Mr. Weddle said in the 23 years the law had been in effect, there had only been 3 or 4 cases that had reached the Supreme Court that involved the issue of approval or disapproval of a subdivision. There was little litigation regarding that issue.

There was some litigation by the Attorney General regarding the use of exemptions. He thought that the reason there was little litigation was because 97% of subdivisions were approved.

{Comments: there was so much background noise it was difficult to hear testimony or the tapes.}

SEN. FOSTER asked what the differences were in the 3 choices with the current language that was in the law, that SEN. COLE was proposing to go back to. He said the private sector was unhappy with that. If the language that was proposed in the bill was adopted, then the governmental units were unhappy. If the language proposed by CHAIRMAN GROSFIELD was adopted, the private sector and the governmental units were saying, maybe they could live with that. He said it was his belief that SEN. GROSFIELD'S amendments were the best solution.

Substitute Motion: SEN. FOSTER MOVED A SUBSTITUTE MOTION TO ADOPT AMENDMENTS 9-13 OF AMENDMENTS NO.hb047305.amk.

SEN. BROOKE asked REP. KNOX which of the 3 options he preferred. He responded that he would prefer the original language in the bill. However, he would agree to CHAIRMAN GROSFIELD'S amendments which parallel Governor Racicot's proposals.

Vote: MOTION TO ADOPT AMENDMENTS NO. 9-13. MOTION CARRIED 7-4 ON A ROLL CALL VOTE.

Motion/Vote: CHAIRMAN GROSFIELD MOVED TO ADOPT AMENDMENT NO. 14 OF AMENDMENTS NO.hb047305.amk. MOTION CARRIED 7-4 ON A ROLL CALL VOTE.

CHAIRMAN GROSFIELD said that because he sensed the committee would not approve it as written, he would like to change amendment no. 17 by striking " following: "related to" Insert: "education and" , and "and schools and public", and include a comma after "roads". Mr. Shontz said that regarding water and sewer, it was easy to define what the impact on public systems would be. He said there was some concern about "roads." If there was a subdivision 8 miles out on North Montana Ave, would that developer have to pay for improvements on Montana Ave to Malfunction Junction? Where do you put an end to the road impact. There needs to be some clarification as to where that impact ends.

CHAIRMAN GROSFIELD said Page 8, Line 18 and 19 says: "The cost must reasonably reflect the expected impacts directly attributable to the subdivision." He said that language would include roads also.

Motion/Vote: CHAIRMAN GROSFIELD MOVED TO ADOPT AMENDMENT NO. 17 OF AMENDMENT NO.hb047305.amk WITH THE CHANGES HE ADDRESSED. MOTION CARRIED 6-5 ON A ROLL CALL VOTE.

REP. KNOX said on Page 9, Line 5 of the grey bill, "but not" should be struck and "and" inserted.

CHAIRMAN GROSFIELD asked if there would be any impact on the bill by striking "but not" and inserting "and" in Section 8, as proposed by REP. KNOX.

Jim Richard said there were a number of things that would then be excluded such as fire prevention facilities, solid waste, etc. He thought the language, "and limited to" was too inclusive. He thought the language should say, "not limited to."

Mr. Kakuk said the next set of amendments no's 18, 20, and 23-27 change "fair market value" to "area." CHAIRMAN GROSFIELD said if "fair market value" was left in the bill, there would have to be an appraisal. SEN. BROOKE asked how a subdivider could avoid getting an appraisal.

{Tape: 2; Side: A}

CHAIRMAN GROSFIELD said that with the amendments, there would be no need for an appraisal. Mr. Shontz said then when they were talking about "areas", with the language in the amendments the local governments could specify exactly which areas would be designated as parks, and then the developer loses control over what areas are for homes and what areas are for parks. He asked if that was the committee's intent.

CHAIRMAN GROSFIELD said his amendments did not address that. Mr. Shontz said after the grey bill was drafted, there was an issue of concern that local governments could specify what lands could be parks. CHAIRMAN GROSFIELD said Page 10, Lines 11-14 say: "The governing body, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations for parks and playgrounds..." He said that was the case with or without the amendments.

SEN. KEN MILLER said the bill says they must put up 11% for parks, does that mean they cannot put up more than 11%. CHAIRMAN GROSFIELD said he thought any governing body would accept a donation. Mr. Shontz said under the bill, the law says, "that the subdivider shall dedicate land equal to 11%." He said if they wanted to dedicate more land, they could. The way the bill was written they cannot require more than 11%.

Motion/Vote: CHAIRMAN GROSFIELD MOVED TO ADOPT AMENDMENTS NO. 18, 20, 23, 24, 25, 26, 27 OF AMENDMENTS NO.hb047305.amk. MOTION CARRIED 7-4 ON A ROLL CALL VOTE.

CHAIRMAN GROSFIELD said amendment no. 19 inserts "recreational camping vehicles", so that the park dedication requirement would also apply to RV campgrounds. SEN. KEATING asked whether they were considered a subdivision. CHAIRMAN GROSFIELD said that under the law, they were considered a subdivision.

Mr. Richards responded that it was his understanding that by leaving recreational vehicle campgrounds out, they would not be required to comply with the park dedication requirements. He said he and his wife just constructed an RV park in White Sulphur Springs, and the park requirement not only made it an excellent park, but provided important space for children, etc.

SEN. MILLER asked if that meant that a planning board could not require a park for mobile home subdivisions. **Mr. Kakuk** said that a park dedication may not be required for a subdivision in which parcels are not created. It was possible to create a subdivision where you actually don't create any parcels, and then the statute does not require you to comply with the park dedication requirements, unless the subdivision provides multiple spaces for mobile homes, condominiums and with this amendment, recreational camping vehicles.

Motion/Vote: CHAIRMAN GROSFIELD MOVED TO ADOPT AMENDMENT NO. 19 OF AMENDMENTS NO.hb047305.amk. MOTION CARRIED 6-4 ON A ROLL CALL VOTE.

CHAIRMAN GROSFIELD said amendments no. 21 and 22 clarify the location of the governing bodies jurisdiction with respect to parks. He didn't think the work "regional" was definitive, so the amendment clarifies that by saying "within its jurisdiction." Striking Lines 20-23 on Page 7, was just for clarification.

Mr. Shontz said amendment 21 was fine, but the stricken lines in the grey bill should be reinserted in the bill. People that buy homes in subdivisions pay the costs to maintain those parks. He recommended not to pass amendment No. 22

Motion/Vote: CHAIRMAN GROSFIELD MOVED TO ADOPT AMENDMENT NO. 21 OF AMENDMENTS NO.hb047305.amk. MOTION CARRIED 6-4 ON A ROLL CALL VOTE.

CHAIRMAN GROSFIELD withdrew amendment no. 22.

Motion/Vote: CHAIRMAN GROSFIELD MOVED TO STRIKE ON PAGE 8, LINE 17 OF THE BILL, "(a)" AND STRIKE SUBSECTION (b) ON LINE 18 IN ITS ENTIRETY. MOTION CARRIED 6-4 ON A ROLL CALL VOTE.

Motion: CHAIRMAN GROSFIELD MOVED TO ADOPT AMENDMENTS NO. 30, 31, AND 32 OF AMENDMENTS NO.hb047305.amk, WITH THE WORDS "Strike: "material"" ELIMINATED FROM AMENDMENT NO.31.

Mr. Shontz said in the grey bill, Lines 14-25, Page 12 after "or a", the word "private" was inserted before "landowner".

Mr. Shontz also expressed concern with Page 12, Lines 19-21. He said cities and counties have overlapping jurisdictions when it comes to subdivisions in particular, because a city has jurisdiction 4 miles beyond its boundaries for subdivisions. He said sections (c) and (d) should not be struck in the bill. In

Section (c) of the bill which says: "a political subdivision if that political subdivision can show that it is likely to suffer a significant adverse fiscal impact due to the proposed subdivision." That could include mosquito districts, SID'S, RSID districts and maybe schools. They could go to court and say they oppose the subdivision because it poses a significant adverse fiscal impact and they may want to assess development impact fees. In Jefferson County it could cost from \$11,000 to \$14,000 per lot. Potential new homeowners would be exposed to a double jeopardy tax. Therefore, in the grey bill, Lines 19 through 22 should be reinstated and Lines 23 through 25 be stricken.

CHAIRMAN GROSFIELD said **Mr. Shontz** was addressing amendment no. 32 with these concerns.

Mr. Richard responded that **Mr. Shontz** incorrectly implied that there were parts of an area where there could be an opportunity for dual jurisdiction. Under Section 76-3-601 it says: "when the proposed subdivision lies within the boundaries of an incorporated city or town, the preliminary plat should be submitted to and approved by the city or town governing body. When the proposed subdivision is situated entirely in an unincorporated area the preliminary plat shall be submitted to and approved by the governing body of the county." Subsection (c) say: if it lies partly in the incorporated city and partly in the county, then it has to be approved by both. He said that language could be made broader, not more restrictive.

Substitute Motion/Vote: **CHAIRMAN GROSFIELD** MOVED TO ADOPT AMENDMENT 30, INSERTING "private" BEFORE "landowner", AND AMENDMENT NO. 31 WITH "strike: "material"" DELETED. MOTION CARRIED 6-4 ON A ROLL CALL VOTE.

Motion: **CHAIRMAN GROSFIELD** MOVED TO ADOPT AMENDMENT NO. 32 OF AMENDMENTS NO.hb047305.amk.

Discussion:

SEN. FOSTER asked **CHAIRMAN GROSFIELD** why the language in amendment no. 32 was opened up to political subdivisions as opposed to the County Commissioners or the City Council. He replied that a given subdivision proposal might have a significant impact on a district. That district should have the ability to show significant adverse fiscal impact.

SEN. FOSTER asked **CHAIRMAN GROSFIELD** if there were any of those districts that were not answerable to the County Commissioners. **CHAIRMAN GROSFIELD** said that a fire district would probably be much more accountable than a school district. **REP. KNOX** said there very well could be a jurisdiction problem and believed those lines were necessary. He said he would resist expanding the bill to that extent.

Motion Withdrawn: **CHAIRMAN GROSFIELD** WITHDREW HIS MOTION ON AMENDMENT NO. 32.

Motion: CHAIRMAN GROSFIELD MOVED TO ADOPT AMENDMENT NO. hb047303.amk AS CONTAINED IN EXHIBIT 4.

CHAIRMAN GROSFIELD explained the amendment to the committee members. He said Page 8, Line 19 addresses the definition of aggrieved, that was taken from a recent Supreme Court Decision in 1993. Aggrieved means: "a person who can demonstrate a specific personal and legal interest as distinguished from a general interest." The second part says: "show that they will be injuriously affected by the decision."

Vote: MOTION TO ADOPT AMENDMENT NO. hb047303.amk CARRIED 6-4 ON A ROLL CALL VOTE.

Motion: SEN. KEATING MOVED TO CONCUR IN HB 473 AS AMENDED.

Discussion:

SEN. WELDON said he didn't think any of the amendments that were adopted would significantly affect the fiscal note. The fiscal note estimated it would cost local government almost \$350,000. The sponsor estimated it would only be \$170,000. **Rob McCracken, Department of Commerce** said he helped gather data for the fiscal note. He said they did a survey of counties and municipal governments to get some input on what the costs were on HB 408, which was passed in the 1993 session. In every case they used the lowest cost figures available when there was any doubt. **Mr. McCracken** reviewed the survey as contained in EXHIBIT 5.

{Tape: 2; Side: B}

Mr. McCracken said the fiscal note shows a fiscal impact of \$348,000.

SEN. WELDON asked if he thought the amendments would increase the fiscal impact of the bill. He said they would have to review the bill in its final form before they could see if there would be a fiscal impact.

SEN. WELDON said with 97% approval rate, he didn't see any need for the bill with the significant costs of the bill. That \$348,000 would be passed directly to the counties to rewrite the subdivision law.

SEN. KEATING asked **Andy Skinner, subdivider in Lewis & Clark County** to respond to that. **Mr. Skinner** said they failed to mention the revenue that was generated by those subdivisions. He said he had 50 units he developed and the taxes from that subdivision would pay for all of the counties put together. There also was a fee assessed when a subdivision proposal was submitted. There would be no real cost; in fact, there would be a gain to the county from development of those subdivisions.

SEN. COLE asked **Mr. Shontz** what his interpretation of those costs were. He responded that regarding those costs that the Department of Commerce stated on the mitigation section, the law requires that local government go through that already. Therefore, the bill would not add one nickel to the cost of the process. They queried 9 local governments, 6 of which absolutely opposed the legislation. The idea that the Legislature should not adopt laws because local government has to adopt rules is pretty weak. He said he seriously doubted that there would be that kind of a fiscal impact with the bill. The bill would help alleviate the economic impacts for new home owners and private citizens.

CHAIRMAN GROSFIELD asked **Mr. McCracken** if the fiscal note was generated from the introduced version of the bill. He replied that was correct. **CHAIRMAN GROSFIELD** said there were a lot of changes both in the House and the Senate to the bill. The discussion the committee had about Page 4, Lines 4-6 was because there was a tremendous misunderstanding concerning those 3 lines. It seems that the local governments that submitted the figures for the fiscal note were probably as confused as the people at the hearing. Those 3 lines may have had some of the impact on the figures in the fiscal note.

Mr. McCracken said the local governments prepared their figures based upon HB 408. He referred to the examples that came from municipalities and counties. They requested information from all counties, they didn't specifically choose certain ones. He referred to Yellowstone County in **EXHIBIT 5**. They listed their fixed costs which was estimated at \$6,500. **CHAIRMAN GROSFIELD** said he assumed that if HB 473 passes, the Department of Commerce would update their model rules and send them out to the local governments to deal with the bill. He didn't think every county out there was struggling on their own. He felt they would wait for the final word from the department.

Mr. McCracken said the Department of Commerce was not regulatory, but rather they provide information to local governments when it was requested. He said that survey was based on the model rules developed under HB 408. Something that works well for one county may not work well for another.

CHAIRMAN GROSFIELD said the way the bill had been amended he didn't think the fiscal impact would be anywhere near what the fiscal rate says.

SEN. BROOKE said she thought that those unfunded mandates still stand whether or not there were taxes generated by those subdivisions. The County Planning Department, County Commissioners, and other entities worked diligently to implement last session's subdivision reform, which was a compromise and which was to be in place to take effect so that it addressed a lot of concerns. She said in Missoula County which she represents, they had worked diligently to put those in place.

That was an unfunded mandate last time. They don't have the tax dollars now to stay ahead of the curve, if they have to go through another revision. She questioned that housing costs will go down as promised if the bill passes. SEN. BROOKE said they would have a very stressed out, very angry county government if they have to go through another major revision. She didn't think there was a need for the bill at this time.

Vote: MOTION TO CONCUR IN HB 473 AS AMENDED, CARRIED 7-4 ON A ROLL CALL VOTE.

CHAIRMAN GROSFIELD indicated that he would talk to members of the committee and the sponsor to try to find someone to carry the bill on the floor. If he couldn't find anyone, he would feel obligated as Chairman to carry it himself.

{Comments: The following additional written testimony has been submitted for the record by those who couldn't attend the hearing on HB 473.}

Dave Cogley, Wildwood Homes testimony addressed the amendments to HB 473. EXHIBIT 6.

Park County opposes HB 473. EXHIBIT 7.

Members of the Ravalli County Planning Board oppose HB 473 EXHIBIT 8.

Kirk Thompson, Ravalli County, opposes HB 473. EXHIBIT 9.

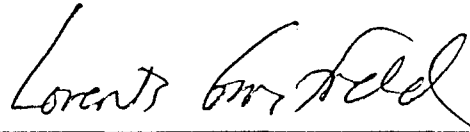
Mame Flowers, Whitefish, Montana, opposes HB 473. EXHIBIT 10.

Park County Planning Board, opposes HB 473. EXHIBIT 11.

{Comments: the meeting was recorded on 2, 2 hour tapes.}

ADJOURNMENT

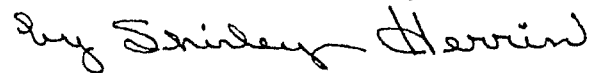
Adjournment: 6:30 PM



LORENTS GROSFIELD, Chairman



THEDA ROSSBERG, Secretary



LG/TR

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE

ROLL CALL

DATE _____

3-22-95

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SENATE STANDING COMMITTEE REPORT

Page 1 of 4
March 23, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration HB 473 (third reading copy -- blue), respectfully report that HB 473 be amended as follows and as so amended be concurred in.

Signed: 
Senator Lorents Grosfield, Chair

That such amendments read:

1. Title, line 9.

Strike: second "AND"

2. Title, line 10.

Following: "MCA"

Insert: "; AND PROVIDING AN APPLICABILITY DATE"

3. Page 4, line 9.

Strike: "An"

Insert: "When required, the"

4. Page 4, line 10.

Strike: "for a major subdivision"

5. Page 4, line 11.

Following: "(1)"

Insert: "for a major subdivision: (a)"

6. Page 4, line 14.

Strike: "(2)"

Insert: "(b)"

7. Page 4, line 17.

Strike: "(3)"

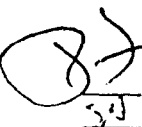
Insert: "(c)"


8. Page 4, line 19.


Following: "~~protection,~~"

Insert: "a community impact report containing a statement of anticipated needs of the proposed subdivision for local services, including education and busing; roads and maintenance; water, sewage, and solid waste facilities; and fire and police protection; and
(d)"

9. Page 4, line 20.

 Amd. Coord.

 Sec. of Senate

 GROSFIELD
Senator Carrying Bill

671104SC.SRF

Strike: "._"

Insert: "; (2) except as provided in 76-3-609(3), for a minor subdivision, a summary of the probable impacts of the proposed subdivision based on the criteria described in 76-3-608."

10. Page 5, line 10.

Following: "subdivision to"

Insert: "reasonably"

11. Page 5, line 12.

Strike: ", based" through "evidence,"

Following: "justify the"

Insert: "reasonable"

12. Page 5, line 14.

Following: "(5)"

Insert: "(a)"

13. Page 5, lines 15 and 16.

Strike: "must" on line 15 through "imposed" on line 16

14. Page 5, line 19.

Strike: "Whenever feasible,"

Insert: "When requiring"

Following: "mitigation"

Strike: "should" through "for"

Insert: "under subsection (4), a governing body shall consult with"

Following: "subdivider"

Insert: "and shall give due weight and consideration to the expressed preference of the subdivider"

15. Page 6, line 10.

Following: "~~shall~~"

Insert: "and preparing an environmental assessment"

16. Page 6, line 17.

Following: second "public"

Insert: "roads,"

17. Page 6, lines 23, 25, 27, and 29.

Strike: "fair market value"

Insert: "area"

18. Page 7.

Following: line 7

Insert: "(a) a minor subdivision;"

Renumber: subsequent subsections

19. Page 7, line 11.

Following: "for"

Insert: "recreational camping vehicles,"

Following: "homes"

Insert: ", "

20. Page 7, line 16.

Following: "both."

Insert: "When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation."

21. Page 7, line 17.

Strike: "Except" through "subsection"

Insert: "In accordance with the provisions of subsections"

Following: "(5) (b) "

Insert: "and (5) (c) "

22. Page 7, line 19.

Strike: "regional"

Insert: ", within its jurisdiction,"

23. Page 7.

Following: line 24

Insert: "(c) The governing body may not use more than 50% of the dedicated money for park maintenance."

24. Page 7, line 29.

Strike: "fair market value"

Insert: "area"

25. Page 7, line 30.

Strike: "value"

Insert: "area"

26. Page 8, lines 3 and 6.

Strike: "fair market value"

Insert: "area"

27. Page 8, lines 4 and 7.

Strike: "value"

Insert: "area"

28. Page 8, line 11.

Strike: "\"fair market value\""

Insert: "\"cash donation\""

Following: "is the"
Insert: "fair market"

29. Page 8, lines 16 through 18.
Strike: ":" on line 16 through "(a)" on line 17
Strike: "; or" on line 17 through "authority" on line 18

30. Page 8, line 25.
Following: "subdivision"
Insert: "or a private landowner with property within the county
or municipality where the subdivision is proposed"

31. Page 8, line 26.
Strike: "adjoining"

32. Page 8.
Following: line 28
Insert: "(4) For the purposes of this section, "aggrieved" means
a person that can demonstrate a specific personal and legal
interest, as distinguished from a general interest, that has
been or is to likely to be specially and injuriously
affected by the decision."

33. Page 9.
Following: line 5
Insert: "NEW SECTION. **Section 13. Applicability.** Funds in a
park fund that exceed \$10,000 as of [the effective date of
this act] must be used for park land acquisition and initial
development. Funds in a park fund up to \$10,000 as of [the
effective date of this act] may be used for park maintenance
in accordance with a formally adopted park plan."

-END-

Amendments to House Bill No. 473 NO. HB-473
Third Reading Copy

For the Committee on Natural Resources

Prepared by Michael S. Kakuk
March 15, 1995

1. Title, line 9.
Strike: second "AND"

2. Title, line 10.
Following: "MCA"
Insert: "; AND PROVIDING AN APPLICABILITY DATE"

3. Page 7, line 17.
Strike: "Except" through "subsection"
Insert: "In accordance with the provisions of subsections"
Following: "(5)(b)"
Insert: "and (5)(c)"

4. Page 7.
Following: line 24
Insert: "(c) The governing body may not use more than 50% of the
dedicated money for park maintenance."

5. Page 9.
Following: line 5
Insert: "NEW SECTION. Section 13. Applicability. Funds in a
park fund that exceed \$10,000 as of [the effective date of
this act] must be used for park land acquisition and initial
development. Funds in a park fund up to \$10,000 as of [the
effective date of this act] may be used for park maintenance
in accordance with a formally adopted park plan."

Amendments to House Bill No. 473
Third Reading Copy

Requested by Rep. McGee
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
March 14, 1995

1. Page 7.

Following: line 7

Insert: "(a) a minor subdivision;"

Renumber: subsequent subsections

Amendments to House Bill No. 473
Third Reading Copy

Requested by Sen. Grosfield
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
March 20, 1995

1. Page 4, lines 4 through 6.
Strike: subsection (3) in its entirety

2. Page 4, line 9.
Strike: "An"
Insert: "When required, the"

3. Page 4, line 10.
Strike: "for a major subdivision"

4. Page 4, line 11.
Following: "(1)"
Insert: "for a major subdivision: (a)"

5. Page 4, line 14.
Strike: "(2)"
Insert: "(b)"

6. Page 4, line 17.
Strike: "(3)"
Insert: "(c)"

7. Page 4, line 19.
Following: "~~protection,~~"
Insert: "a community impact report containing a statement of anticipated needs of the proposed subdivision for local services, including education and busing; roads and maintenance; water, sewage, and solid waste facilities; and fire and police protection; and (d)"

8. Page 4, line 20.
Strike: "."
Insert: "; (2) for a minor subdivision, a summary of the probable impacts of the proposed subdivision based on the criteria described in 76-3-608." *check as 76-3-609*

9. Page 5, line 10.
Following: "subdivision to"
Insert: "reasonably"

10. Page 5, line 12.
Strike: ", based" through "evidence,"
Following: "justify the"
Insert: "reasonable"

11. Page 5, line 14.
Following: "(5)"
Insert: "(a)"

12. Page 5, lines 15 and 16.
Strike: "must" on line 15 through "imposed" on line 16

13. Page 5, line 19.
Strike: "Whenever feasible,"
Insert: "When requiring"
Following: "mitigation"
Strike: "should" through "for"
Insert: "under subsection (4), a governing body shall consult
with"
Following: "subdivider"
Insert: "and shall give due weight and consideration to the
expressed preference of the subdivider"

14. Page 6, line 10.
Following: "~~shall~~"
Insert: "and preparing an environmental assessment"

15. Page 6, line 15.
Following: "extension"
Insert: "or enlargement"

16. Page 6, line 16.
Following: "extending"
Insert: "or enlarging"

17. Page 6, line 17.
Following: "~~related to~~"
Insert: "~~education and~~"
Following: second "public"
Insert: "roads, ~~and schools and public~~"

18. Page 6, lines 23, 25, 27, and 29.
Strike: "fair market value"
Insert: "area"

19. Page 7, line 11.
Following: "for"
Insert: "recreational camping vehicles,"
Following: "homes"
Insert: ", "

20. Page 7, line 16.
Following: "both."
Insert: "When a combination of land donation and cash donation is
required, the cash donation may not exceed the proportional
amount not covered by the land donation."

21. Page 7, line 19.
Strike: "regional"
Insert: ", within its jurisdiction,"

22. Page 7, lines 20 through 23.

Strike: ":" on line 20 through "(ii)" on line 23

23. Page 7, line 29.

Strike: "fair market value"

Insert: "area"

24. Page 7, line 30.

Strike: "value"

Insert: "area"

25. Page 8, lines 3 and 6.

Strike: "fair market value"

Insert: "area"

26. Page 8, lines 4 and 7.

Strike: "value"

Insert: "area"

27. Page 8, line 11.

Strike: ""fair market value""

Insert: ""cash donation""

Following: "is the"

Insert: "fair market"

28. Page 8, lines 13 through 19.

Strike: "A" on line 13 through "(2)" on line 19

Strike: "(3)" on line 19

Insert: "(2)"

29. Page 8, line 23.

Strike: "(3)"

Insert: "(2)"

Strike: "(2)"

Insert: "(1)"

30. Page 8, line 25.

Following: "subdivision" *Private*

Insert: "or a landowner with property within the county or municipality where the subdivision is proposed"

31. Page 8, line 26.

~~Strike: "material"~~ *elim.*

Strike: "adjoining"

Following: ";

Insert: "or"

32. Page 8, lines 27 and 28.

Strike: subsections (3)(c) and (3)(d) in their entirety

Insert: "(c) a political subdivision if that political subdivision can show that it is likely to suffer a significant adverse fiscal impact because of the proposed subdivision."

Amendments to House Bill No. 473
Third Reading Copy

Requested by Sen. Grosfield
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
March 22, 1995

COMMITTEE ON NATURAL RESOURCES
EXHIBIT NO. 4
DATE 3-22-95
BILL NO. HB 473

1. Page 8.

Following: line 28

Insert: "(4) For the purposes of this section, "aggrieved" means a person who can demonstrate a specific personal and legal interest, as distinguished from a general interest, that has been or is to likely to be specially and injuriously affected by the decision."

EXHIBIT NO. 5

STATE OF MONTANA - FISCAL NOTE

DATE 3-22-95

Fiscal Note for HB0473, as introduced

BILL NO. HB-473

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising local subdivision laws by modifying environmental assessment requirements, bonding requirements for public improvements, park dedication requirements, establishing payment criteria for the extension of capital facilities, establishing mitigation guidelines and providing for lawsuits against local governments.

ASSUMPTIONS:

1. The proposed legislation would become effective October 1, 1995.
2. All of the 56 county governments and all 128 municipal governments that have local subdivision regulations would revise them.
3. As directed by state law, the Department of Commerce (DOC) provides advisory technical assistance to counties, municipalities, business persons, developers, land surveyors, and citizens, to help them understand and comply with planning and development statutes (including subdivision statutes).
4. Estimated DOC costs are based upon actual costs incurred by the DOC in FY94 and FY95 when the subdivision law was substantially changed by the 1993 Legislature. DOC projected costs for HB473 include updating two advisory educational publications and conducting eight educational workshops across the state.
6. The proposed legislation amends only the Montana Subdivision and Platting Act, not the Sanitation Subdivision Act administered by the Department of Health and Environmental Sciences.

FISCAL IMPACT:

Expenditures:

Department of Commerce:	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Operating Expenses	16,000	16,000

Funding:

General Fund (01)	16,000	16,000
-------------------	--------	--------

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Additional costs for the 56 county governments (\$147,000) and 128 municipal governments (\$201,000) are estimated to total \$348,000. These estimates are derived from approximate costs incurred by county and municipal governments to update subdivision regulations passed by the 1993 Legislature.

TECHNICAL NOTES:

Section 6 of the proposed legislation (page 5, line 19) states, "Whenever feasible, mitigation should be designed to provide some benefits for the subdivider." There is no definition of the term "benefits". The term could cause confusion in implementing the legislation.

David Lewis 2-15-95

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

DICK KNOX, PRIMARY SPONSOR DATE

Fiscal Note for HB0473, as introduced

HB 473

ESTIMATED COST TO LOCAL GOVERNMENTS TO IMPLEMENT HB473

COUNTY GOVERNMENTS

	Yellowstone Co.	Flathead Co.	Average	Six Largest Counties
Staff Time	\$4,750	\$2,840		
Printing	\$800	\$200		
Other*	\$950	\$120		
Total	\$6,500	\$3,100	\$4,800	\$28,800

	Lincoln Co.	Park Co.	Average	Remaining Fifty Counties
Staff Time	\$1,000	\$2,125		
Printing	\$650	\$638		
Other*	\$250	\$68		
Total	\$1,900	\$2,831	\$2,365	\$118,250

	All Counties
Total	\$147,050

MUNICIPAL GOVERNMENTS

	Bozeman	Billings	Average	Seven Largest Municipalities
Staff Time	\$960			
Printing	\$1,700			
Other*	\$180			
Total	\$2,840	\$3,000	\$2,840**	\$19,880

	Columbus	Hamilton	Red Lodge	Average	Remaining 121 Municipalities
Staff Time	\$1,750	\$911			
Printing	\$500	\$500			
Other*	\$250	\$290			
Total	\$2,500	\$1,701	\$1,500	\$1,500***	\$181,500

	All Municipalities
Total	\$201,380

ALL LOCAL GOVERNMENTS

	All Local Governments
Total	\$348,430

- * "Other" category includes the following types of miscellaneous costs: legal notices, public hearings, training, copying, etc.
- ** The lower number was used as the average rather than averaging the two municipalities together.
- *** The true average is \$1,900 for small municipalities. This seemed somewhat high given the number of smaller municipalities. Therefore, a smaller amount (\$1,500) was estimated.

HB 473

DATE 3-22-95

ADDITIONAL EXPENDITURES FOR DOC

ENR NO. HB-473

(Operating category only, figures cited are for Biennium.
Assume 50% of each line item for FY 96 and 50% for FY 97)

Contract Services (Consultant)

*Produce Advisory Manual for Subdiv. Admin. (155 hours x \$45/hour)	\$ 7,000
*Produce Advisory Model Subdivision Regs. (200 hour x \$45/hour)	\$ 9,000
Subtotal	\$16,000

Printing

*Advisory Admin. Manual (300 copies)	\$ 6,000
*Advisory Model Subdiv. Regulations (600 copies)	\$ 3,900
Subtotal	\$ 9,900

Mailing Costs

*Postage (Manual 300 copies x \$2.97 = \$891) (Model 600 copies x \$2.63 = \$1,578)	\$ 2,469
*Shipping (Manual, 300 copies x \$1.80 = \$540) (Model, 600 copies x \$.70 = \$420)	960
Subtotal	\$ 3,429

Travel (Put on Educational Workshops)

\$1,188/year (4 workshops/year 8 total for biennium)	\$ 2,376
---	----------

Total	\$31,705
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EXHIBIT NO. 5DATE 3-22-95BILL NO. HB-473

**TRAVEL COSTS BY THE COMMUNITY TECHNICAL ASSISTANCE PROGRAM
TO PROVIDE TECHNICAL ASSISTANCE TO LOCAL GOVERNMENTS TO
IMPLEMENT HB473**

1. Mileage costs:

Based on a total of 1,702 miles (round trip mileage to: Missoula, Great Falls, Billings, Glendive as an example) and \$.2595/mile (rate for vans) the total mileage cost is: **\$441.67**

2. Meals & Lodging costs:

A. Lodging	\$31.20/ night/ per person
B. Meals	<u>\$15.50/ day/ per person</u>
C. Total	\$46.70/ day/ per person

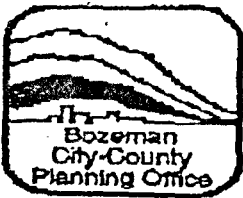
Assuming three staff per workshop and two days per workshop:

A. Lodging	\$93.60
B. Meals	<u>\$93.00</u>
C. Total	\$186.60/ workshop

3. Total Costs:

The cost for providing technical assistance to local governments assuming four workshops using a van, three people and an average of two days per trip, the total cost of providing four workshops is:

Vehicle	\$441.67
Meals & Lodging	<u>\$746.40</u>
Total	\$1,188.07



**BOZEMAN
CITY-COUNTY
PLANNING OFFICE**

35 NORTH BOZEMAN AVENUE
P.O. BOX 640, BOZEMAN, MONTANA 597
PHONE: (406) 582-2300 FAX: (406) 582-2363

Post-It brand fax transmittal memo 7671		# of pages 2	
To	Gavin Anderson	From	Andy Effie
Co.	DOI	Ca	BCCPB
Dept.		Phone #	582-2360
Fax #	1-406-582-2363	Fax #	

MEMORANDUM

EXHIBIT NO. 5
DATE 3-22-95

TO: GAVIN ANDERSON, DEPARTMENT OF COMMERCE
FROM: ANDREW C. REPLER, BOZEMAN CITY COUNTY PLANNING DIRECTOR
DATE: FEBRUARY 10, 1995
RE: SUBDIVISION AMENDMENT COSTS

Estimated costs to the City of Bozeman to enact changes to local subdivision regulations mandated by the passage of House Bill 408 can be summarized as follows:

Staff time to draft mandated changes, prepare public notices, prepare hearing agendas, make presentations at hearings, prepare minutes and findings, prepare ordinance, codify...24 hrs* @ \$40/hr**.....	\$ 960
Advertising.....	180
Codification (publication in Munic. Code).....	1,700
TOTAL.....	\$2,840

Gallatin County incurred similar costs to enact the mandated changes as well.

I would anticipate comparable expenses to enact changes that may be mandated by passage of House Bill 473. I am quite certain that local governments and planning boards across the state would view such requirements as an unfunded mandate, unless the state is willing to provide funds to local governments to enact such changes.

Please let me know if you have any questions or need any additional information.

*Salaried staff time only -- does not include substantial hours spent by planning board members and commissioners in public hearings and meetings related to these changes.

**\$40/hour - rough average hourly wage of all staff involved in amendment process, from clerical to city attorney.

SENATE NATURAL RESOURCES
EXHIBIT NO. 5
DATE 2-22-95
BILL NO. HB-473

**CARBON COUNTY/RED LODGE
ESTIMATED COSTS TO IMPLEMENT 1993 SUB. LAW**

* Carbon County (Including All Cities and Towns)	\$5,000
* City of Red Lodge (Estimated)	\$1,500

Mike Fahley

SENATE NATURAL RESOURCES

EXHIBIT NO. 5

DATE 3-22-95

BILL NO. HB-473

**CITY OF BILLINGS
ESTIMATED COSTS OF IMPLEMENTING
1993 SUBDIVISION LAW**

APPROXIMATELY

\$3,000

**(Includes professional staff
time, clerical staff time,
telephone charges, postage,
office supplies, copy charges,
printing, legal ads)**

Bill Arnold

2/11/1995

COSTS TO UPDATE SUBDIVISION REGULATIONS
(1993) FOR
THE CITY OF HAMILTON
DON WILLIAMSON, CITY MANAGER
2/11/1995

1. STAFF TIME

* Don Williamson	
Initial draft (15 hrs x \$21/hr)	\$315.00
Questions (4 hrs x \$21/hr)	84.00
Subdivision Training Workshop (8 hrs x \$21/hr)	168.00
* Secretary, Typing (4 hrs x \$11/hr)	44.00
* City Attorney, Legal Questions (4 hrs x \$45/hr)	180.00
* New City Planner, Training Workshop (8 hrs x \$15 hr)	120.00

2. PRINTING

* Print Regulations	500.00
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3. TRAVEL COSTS, SUBDIV. TRAINING WORKSHOP

* Motel, Meals, Gas	140.00
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4. MISCELLANEOUS

* Public Notice (\$40), mailings, postage, etc.	150.00
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TOTAL	\$1,701.00
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SENATE NATURAL RESOURCES

EXHIBIT NO. 5

DATE 3-22-95

BILL NO. HB 473

**TOWN OF COLUMBUS
COSTS TO IMPLEMENT 1993 SUBDIVISION LAW
(ESTIMATED)**

Staff Time	\$ 1,750
Print new regulations	500
Other costs	<u>250</u>
Total	\$ 2,500

Beaudry

EXHIBIT NO. 5DATE 3-22-95Costs Estimated for Implementation of 1993 Amendment to HB 473

Montana Subdivision & Platting Act (MSPA)

Yellowstone County

(Bill Arnold)

The following list provides an estimate of costs incurred to implement the amendments to the Montana Subdivision & Platting Act (MSPA) enacted by the 1993 Montana legislature.

Professional Staff Time	\$4,000 -
Clerical Staff Time	750 ✓
Telephone Charges	150
Postage	150
Office Supplies	250
Copy Charges	250
Printing	800
Legal Ads	150

ESTIMATED TOTAL \$6,500

Since adoption of the 1993 amendments, staff time has increased significantly as related to the subdivision review process due to the number of land divisions that now require review. This imposes an additional indirect cost to local government in that staff time on other important issues has had to be decreased.

House Bill #473 would, due to its content, effectively double the costs listed above. Local governments would have to undergo the same process as two years ago in order to implement the new law. The same type of costs would be incurred, only two years later, those costs increase simply due to inflationary factors. Beyond that, local government's cost for subdivision review would increase due to the content of H.B. #473. This equates to an unfunded mandate to both cities and counties.

SENATE NATURAL RESOURCES

IMPLEMENTATION OF NEW SUBDIVISION REGULATIONS

EXHIBIT NO. 5

DATE 3-22-95

BILL NO. H B-473

SUBDIVISION REGULATION REVISION COPIES

County Staff-----	\$50.00
3 Planning Boards-----	\$150.00
General public-----	\$500.00
Copier Toner-----	\$50.00

PUBLIC HEARING NOTICES-----\$50.00

INFORMATIONAL HANDOUTS, LETTERS,
CORRESPONDENCE, AND ARTICLES-----\$250.00

STAFF TIME-----\$1,000.00

TOTAL COST \$2,050.00

LINCOLN COUNTY
Ken Peterson

SCIENTIFIC NATURAL RESOURCES

EXHIBIT NO. 5
9-22-95COST ESTIMATES TO REWRITE SUBDIVISION LEGISLATION
PARK COUNTY (HB 408, 1993)
FILE NO. HB-423

Staff Time 100 hours @ \$13.00/hour = \$1,300

Four public hearing notices @ \$16.00 = \$68.00

County Commissioners Review and Hearings = 25 Hours @ \$11.00/hr(3)
= \$825.00Printing Costs \$.07/page x 114 pages x 80 copies =
\$638.00

Total = \$3032.00

This is just a rough estimate. It probably is a little more, but this is the closest I can come. We charge for the regulations after they are passed, but draft copies are given to the public free of charge.



Flathead Regional Development Office

723 5th Avenue East - Room 414

Kalispell, Montana 59901

SENATE NATURAL RESOURCES

EXHIBIT NO. 5

Phone: (406) 758-5780

Fax: (406) 758-5781

DATE 3-22-95

BILL NO. HB-473

DATE: GAVIN ANDERSON

FAX TO #: 442-4482 444 2903

NAME: _____

LOCATION: D.O.C.

PHONE: _____

TOTAL PAGES (INCLUDING COVER SHEET) 2

FAX FROM: TOM JENTZ

DEPARTMENT: FRDO, KALISPELL, MT

PHONE: 758-5980

MESSAGE

FIGURE #4200 at a min. to implement

SUB - REGS.

Tom

Providing Community Planning Assistance To:

• Flathead County • City of Columbia Falls • City of Kalispell • City of Whitefish •

DOES NOT INCLUDE PLANNING BOARD TIME - 9 members + SECRETARY

DOES NOT INCLUDE COUNTY COMMISSION TIME + SUPPORT (3 COMM., 1 SEC., 1 ATOR)

(ADD \$1000 extraneous cost. SENATE NATURAL RESOURCES

EXHIBIT NO. 5

DATE 3-22-95

FLATHEAD COUNTY BILL NO. 143-422

FLATHEAD COUNTY EXPENSE UPDATING COUNTY SUBDIVISION REGULATIONS

1993 -1994

100 HOURS -	RE-DRAFT OF SUB. REGULATIONS
2 HOURS -	PLANNING BOARD WORK SESSION
\$20 -	LEGAL NOTICE
20 HRS. -	STAFF EDITING/WORK
1 HR. -	PLANNING BOARD PUBLIC HEARING
3 HR. -	PUBLIC OPEN HOUSE
1 HR. -	COUNTY COMMISSION STUDY SESSION
\$20 -	LEGAL NOTICE
5 HR -	COUNTY COMMISSION PUBLIC HEARING
\$40 -	COMMISSIONER RESOLUTION/PUBLICATION
5 HRS -	ADDITIONAL STUDY SESSION WITH COUNTY HEALTH DEPT. RE: SANITATION ON 20 ACRE OR LARGER TRACTS
\$200 -	REPRINTING OF REGULATIONS
5 HRS -	REDRAFT OF SUBDIVISION EVASION CRITERIA
\$40 -	COUNTY COMMISSIONER PUBLIC HEARING\RESOLUTION\PUBLISHING
142 HRS -	TOTAL STAFF HOURS (@\$20/HR)
\$320 -	TOTAL LEGAL AND PUBLISHING COSTS

3160

TOTAL

=

HB 473 FISCAL NOTE: DEPARTMENT OF COMMERCE ASSUMPTIONS
WORKING NOTES, 2/11/95

1. The proposed legislation would become effective October 1, 1995.
2. All 56 county and 128 municipal governments would need to revise their local subdivision regulations to reflect the changes required by HB 473. Note that all municipalities and counties are required to adopt subdivision regulations under 76-3-501, MCA (current law).
3. As directed by state law, the Department of Commerce (DOC) provides advisory technical assistance to counties, municipalities, business persons, developers, land surveyors, attorneys, and citizens, to help them understand and comply with planning and development statutes (including subdivision statutes). Thus, DOC would provide assistance to these clients upon their request for assistance with HB 473.
4. Cost calculation assumptions for costs to DOC. Estimated DOC costs are based upon actual costs incurred by DOC in FY94 and FY95 when the subdivision law was substantially changed by the 1993 Legislature (HB 408). DOC estimated costs for HB 473 include updating two advisory educational publications and conducting eight educational workshops across the state. These activities enable DOC to carry out the statutory requirement to provide technical assistance.
5. Cost calculation assumptions for municipal and county governments. Historical data from local governments to implement HB 408, which was passed by the 1993 Legislature, was used as the basis for estimating costs to implement HB 473. HB 473 will cost city and county governments at least as much as HB 408. For both HB 408 and HB 473, certain activities in revising local regulations would be identical. For both bills, local governments would have to study the new laws, write draft regulations, hold public hearings, revise and fine tune the drafts, adopt final regulations, and print copies of both draft and final regulations.

In addition, HB 473 will cost local governments at least as much as HB 408 because HB 473 would change the mechanics of the subdivision review process. In contrast, HB 408 basically just expanded the scope (types and sizes of land parcels subject to subdivision regulation). As a result, HB 408 was much simpler to implement both legally and technically, because it did not change the basic mechanics of the subdivision review process.

One example of how HB 473 fundamentally changes the mechanics of the subdivision review process is the new "mitigation" procedure the bill would establish. First of all, note that the HB 473 "mitigation language" (Section 6, page 5, line 11 of the bill) applies to and changes the entire subdivision review process

(mechanics of review).

Secondly, HB 473 would shift the burden of proof to the local governing body to justify the mitigation measures proposed based on "substantial credible evidence." (Section 6, page 5, line 12 of the bill). According to DOC legal staff, there is no other regulatory framework in state law that requires this type of very stringent evidence. There are no known models in terms of other land use laws.

Thirdly, there is no definition of "benefits to the subdivider" in terms of designing the mitigation process and how this would work in practice (Section 6, page 5, line 19 of HB 473).

Fourthly, HB 473 enables subdividers and a limited number of other parties to sue local governments for damages (in cash) if the subdivider or other parties disagree with the mitigation (or other conditions or measures) proposed by the local government. This means drafting of the new local regulations would need to include a comprehensive and stringent examination of every part and detail of the subdivision review process and would require a great deal of new legal interpretation. (Section 10, page 8, line 15 of HB 473 establishes the ability to sue for damages.)

To summarize, the mitigation language is only one example of a legal and technical issue which would change the fundamental mechanics of subdivision review.

Therefore, it is very likely that HB 473 will cost more than HB 408 because HB 473 substantially changes the mechanics of the review process, including the legal and technical issues mentioned previously. DOC believes HB 473 would possibly cost 30% to 40% more than HB 408 due to these facts. The 30% to 40% additional costs were not factored into the fiscal note because DOC, as a matter of policy and consistent with DOC's past practice in preparing fiscal notes, used extremely conservative figures based on actual historically documented costs from information available from local governments for the implementation of HB 408. The use of HB 408 as the basis to estimate costs for HB 473 is very financially conservative.

Methodology for Cost Calculations. The total time allowed the DOC Local Government Assistance Division fiscal note preparers was 10 working hours -- not the 24 hours or 3 working days usually allowed. Data was not available from local governments "off the shelf." Instead, new data had to be collected and analyzed by DOC. Therefore, we had to quickly design a balanced methodology that would still allow DOC to meet the brief deadline for the fiscal note submission.

A phone survey of municipal and county governments was conducted by DOC to collect costs on implementing HB 408 as the basis for estimating costs for HB 473.

Costs to municipalities and costs to counties were computed separately. Costs were computed separately for the larger municipalities and the rest of the municipalities (smaller towns). Similarly, costs for counties were broken down into larger counties and the rest of the state (smaller counties). Generally, averages of these 4 categories were used to estimate costs. In a couple of cases, the raw averages appeared to be slightly high; therefore, DOC used the lowest figures available, as opposed to the raw averages. The final cumulative figure, \$348,430, reflects a conservative estimate based on real world documented costs submitted to DOC directly from local governments. The estimate is a minimum cost estimate.

The following cost categories were included in the fiscal note estimate:

1. Local staff time (hourly cost) required to write draft regulations for public review, resolve questions, fine tune the draft, and adopt final regulations was included. The cost of staff time was taken from the figures submitted by local governments in the phone survey.
2. Printing costs for new regulations (including drafts for public comment, and final versions for the public, land developers, planning board, and local government officials and staff) was included. The cost for printing was taken from the figures submitted by local governments in the phone survey.
3. Other directly related costs were included such as publication of the legal notices required by state law to inform the public, copying, etc. These figures were obtained from the figures submitted by the local governments in the phone survey.

The following cost categories were not included in the fiscal note:

1. Costs of travel to receive training on the new law and regulations for planning board members, planners, and other city and county officials were not included. Local governments did not have enough time, given the required time-frame for completing the fiscal note, to quantify the costs. (The City of Hamilton was the one exception. Hamilton's costs were included, because the figures were documented and available).
2. The estimated costs to local governments for hiring planning consultants or land use lawyers on a temporary contract basis were not included. Since they do not generally have professional staff with this specialized experience, many rural counties and small towns would need to contract for help from a planning consultant at about \$40/hour and/or a land use lawyer at about \$50-\$90/hour. It is difficult to estimate cumulative

costs statewide since these contractual decisions are individual decisions which are unique for each municipality or county. It would be hard to predict these costs without the time to analyze each jurisdiction on an individual basis.

3. The projected costs for the payment of cash damages resulting from lawsuits by parties (such as subdividers) appealing the governmental body's decision on a subdivision were not included. The current law does not allow cash damages to parties which prevail upon appealing a local government decision to a court. HB 473 authorizes cash damages. It is difficult to estimate how many lawsuits would be filed, the number of judgments which would be made against local governments, the amount of the cash damages awarded by courts, how much of the new costs would be paid by municipalities and counties with their existing budgets, or how much of the new costs would have to be imposed on the local taxpayers by higher taxes (judgement mill levies).
4. Inflation was not factored in. HB 408 became fully effective on 10/1/93. HB 473 would become effective on 10/1/95. The 1993 costs could be adjusted upwards by the Consumer Price Index; however, given the short period to prepare the fiscal note, there was not time to carefully calculate the inflation factor.
5. The additional costs (possibly 30% to 40% more overall) that HB 473 would cost local governments to implement compared to HB 408 were not included. HB 473 would cost more than HB 408 to implement because it substantially changes the mechanics of the review process and involves major legal and technical questions and interpretations to design new regulations to incorporate major changes in the mechanics of subdivision review, such as the new comprehensive mitigation procedure and new cash damages procedure. These costs were not factored into the fiscal note because there was not adequate time available to analyze these new costs in adequate detail.

SUMMARY. DOC has taken our responsibility to prepare an accurate fiscal note very seriously. We used hard figures that could be backed up with historical evidence. The data used came directly from local governments. According to the DOC Fiscal Note Coordinator who double checked the fiscal note, the note prepared for HB 473 was one the most sound fiscal notes prepared by DOC. Thus, DOC believes the figures in the fiscal note -- including the \$348,430 estimated cost to municipalities and counties and estimated cost to DOC of \$32,000 -- to be a reasonable estimate of the costs to implement HB 473.

<l:hb473>

WILDWOOD Homes

1 Prickly Pear Dr. • Clancy, MT 59634 • (406) 442-3176

March 22, 1995

Senate Natural Resources Committee
Montana State Legislature
Helena, Montana

SENATE NATURAL RESOURCES

EXHIBIT NO. 10

DATE 3-22-95

BILL NO. HB-473

Re: Senator Grosfield's amendments to HB 473

Dear Senator Grosfield and Committee Members:

My name is Dave Cogley and I am a homebuilder in the Clancy and Helena area. I speak for myself and for the Montana Building Industry Association as chairman of its Legislative Affairs Committee. I am addressing only the proposed amendments to HB 473 which allow a local government reviewing a subdivision proposal to require the developer to pay or guarantee payment for part or all costs of extending or enlarging school facilities deemed necessary as a result of the development. Development fees, or impact fees, are not new with respect to roads and water and sewer facilities, and past litigation has now clarified requirements concerning fair assessment of these kinds of fees in Montana. (See Lechner v. City of Billings, 244 Mont. 195, 797 P.2d 191 (1990) and attached analysis of legal issues involved in imposing these fees.) But new issues are raised when these fees are applied to school facilities. Very briefly, some of those issues are as follows.

1. The state has a constitutional obligation to provide equal educational opportunity for each of its citizens. Article X, section 1(1), Montana Constitution. Also, the state must fund in an equitable manner its share of the cost of the elementary and secondary public school system. Article X, section 1(3), Montana Constitution. These requirements reflect the policy that a public school system benefits society generally, should be available equally to all, and should be paid for by society as a whole, not by the individual users of the public school system. In stark contrast, these proposed amendments place the cost of new required facilities squarely on those individuals and families buying parcels in the new subdivision. And it does so without regard to whether those people and families individually will even use the school facilities for which they are forced to pay. Because of the wide latitude of discretion these amendments give to local governments to impose either no fees, or fees for part or all of the necessary capital improvements, it is inevitable that these kinds of fees will not be equally applied, and will result not only in disequalizing school funding even more than at present, but will promote unequal educational opportunity between communities as well.

2. The U.S. Supreme Court, in Nollan v. California Coastal Commission, 107 S. Ct. 3141 (1987) has said these kind of exactions must be directly connected to the needs generated by the development. All residents or occupants of the

development will use and require roads, water, and sewer. Not all will use or require school facilities. There is no way to predict how many, if any, resident families may have school children, or whether they will use the public school system.

3. Article X, Section 8, of the Montana Constitution vests the control of schools in a local board of trustees. Allowing the county commissioners to impose impact fees for construction of school facilities raises serious implications for local control of a school district. The local control over buildings for the district could be effectively removed from the trustees and electors of the district and placed in the county commissioners approving the subdivision. The use of fees imposed permissively by one political subdivision to support a function of another political subdivision is questionable under any circumstance, but especially so in the case of schools where control is constitutionally vested in the school district trustees. Commissioners may not be convinced of needs expressed by school trustees, or may have other considerations not related to schools, that they must respond to in deciding on imposition of impact fees. Whether local control of schools is violated or not, the amendment certainly deeply involves counties and towns in the affairs of the school districts.

4. School facilities traditionally are funded by local property taxes which service bonds issued to fund construction of new facilities. New residents will pay property taxes that will service these bonds. If they also have to pay fully for new school facilities needed because of the new subdivision, then they will pay twice. Also sections 20-9-370 and 20-9-371, MCA, provide for state reimbursement to eligible districts for school facilities. Some other sources of revenue are also available. New development should not be responsible for any portion of funding for new facilities that comes from the state or other sources. But calculating a just apportionment of costs to alleviate undue excessive burden on new development can become very technical, and sure to generate litigation.

According to information distributed by the American Planning Association, approximately 20 states currently have impact fee enabling legislation. The vast majority of those do not allow school impact fees. In those that do, the fees range from \$135 to \$3,160 per single-family home, with an average of \$2,663. California law authorizes school impact fees of \$1 per square foot for residences and \$0.25 per square foot for non-residential buildings. By way of contrast, figures of \$11,000 to \$14,000 per new lot have been suggested for schools in Jefferson and Gallatin County over the past year.

Because of the significant impact on the cost of housing and the propensity for mischief in the exercise of the broad authority given by the proposed amendments, the Montana Building Industry Association strongly urges the committee to reject the amendments authorizing school impact fees. If such authority

EXHIBIT NO. 6
DATE 3-22-95
FILE NO. 1A B-473

is nevertheless deemed necessary, we strongly urge further defining and delimiting the authority of counties and towns, especially as to the amount of fee that may be imposed.

Sincerely,

Dave Cogley
Dave Cogley

Are Impact Fees Legal?

The following discussion provides a general framework for analyzing the legality of impact fees. It is important to know the law of your particular state and to consult with counsel because each jurisdiction has its own blend of precedents and applications for development exactions, dedications and fees.

However, the imposition of any type of fee raises two fundamental questions: is the fee really a "tax" (and thus illegal), and is the fee unreasonable (and thus unconstitutional)?

Is the impact fee authorized by state law?

The validity of impact fees often depends on whether they are classified as "fees" or "taxes." A local government's authority to impose fees derives from the police power to regulate development for the public health, safety or welfare, while its power to levy taxes is based on the tax power to raise general revenues. Both the police and tax powers reside with the state, and a local government has no authority to use either power unless a state constitution, statute or home rule charter delegates such authority.

A regulatory fee often needs only broad legislative delegation, but a tax requires express statutory authorization. An impact "fee" that is really a tax will be struck down if the legislature has not authorized a local tax on development. Even in some states allowing impact fees, if the fee goes beyond responding specifically to the burdens created by a new development on public services, the fee may be deemed illegal because it lacks state enabling authority.

Since the purpose of a regulatory fee is to finance a specific municipal service or capital expenditure, the fee amount should be reasonably equivalent to the cost of the activity regulated. If the charge unreasonably exceeds the cost of administering the regulation in question

or is levied for unrelated revenue purposes or goes into the general treasury rather than a special fund, it very well may be characterized as a tax. A charge also may be labeled a tax if it is not earmarked for the benefit of the development from which it was collected but is available for expenditure in a broad geographic area.

Is the impact fee constitutional?

State and federal constitutions protect property rights through three basic clauses: the equal protection clause, the due process clause, and the taking (or just compensation) clause.

Equal protection deals with the concept that citizens in like circumstances be treated the same under the law.

Due process has two different components—procedural due process and substantive due process.

Procedural due process means that a property owner must be given fair notice and an opportunity to be heard at a public hearing before governmental action is taken affecting his rights. Substantive due process connotes the idea that governmental action cannot violate a person's rights in an arbitrary, capricious or unreasonable fashion. For example, if a community has an impact fee policy (but no written ordinance), it raises the likelihood of arbitrary or capricious action because no owner knows what the rules are until he or she submits a development plan or applies for a permit. Or if an ordinance exists but it is vague or lacks sufficient standards, or its terms are demonstrably unreasonable, substantive rights to due process of law would be infringed.

The taking issue involves two separate questions: does the fee deny an owner all reasonable use of the property; and is the amount of the fee or extent of the exaction directly connected to the burden or need created by the proposed development on the public interest? The first

municipality in making capital improvements or providing services. Generally, only demonstrably excessive fees will be struck down.

Is the impact fee a "taking" of private property for public use without just compensation?

The taking question raises the issue of whether an impact fee is confiscatory. Taking challenges against fees rarely succeed because payments of fees do not deny the owner all reasonable use of the proposed development. The U.S. Supreme Court, however, in *Nollan v. California Coastal Commission*, 107 S.Ct. 3141 (1987), for the first time addressed the taking issue as it relates to development exactions. The Court found a taking because it saw no direct relationship between a condition attached to a building permit and any "substantial" advancement of a legitimate governmental interest.

In other words, the Court said there must be a direct connection between an exaction and a significant public interest, as well as between an exaction and the needs generated by the development. If no such connection can be

demonstrated, a taking could be triggered, requiring just compensation under *First English Evangelical Lutheran Church of Glendale v. Los Angeles County*, 107 S.Ct. 2378 (1987). Because of the *Nollan* ruling, the exaction/taking area of law is in some state of flux. Government, at minimum, will have to demonstrate the specific need for a specific exaction in order to avoid a taking challenge. For example, a road impact fee required of a project in the north part of a county would be a "taking" if the funds were spent to improve roads in the south part of the county.

Under *Nollan*, it no longer is enough for government to defend itself from a taking challenge by merely saying it acted rationally. Government now must justify with plans, data, studies and solid information the link between its regulatory action and the impact created by the regulated property. The "substantial" advancement requirement means the courts are to apply a stricter level of scrutiny to challenged exactions.

In short, impact fees must be authorized by state law and applied in a nondiscriminatory, nonarbitrary, reasonable manner.

SENATE NATURAL RESOURCES
EXHIBIT NO. 7
DATE 8-22-95
BILL NO. HB-473

March 16, 1995

Senator Lorents Grosfield, Chairman
Senate Natural Resources Committee
Capital Station
Helena, MT 59620-1706

RE: VOTE AGAINST HB #473 - PROPOSED SUBDIVISION LEGISLATION

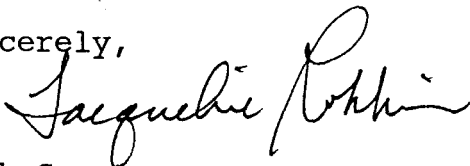
Dear Senator Grosfield and Committee Members:

This letter is in opposition to HB 473. HB #473 is an unfunded mandate passed from state government down to local governments. Again state government is demanding local governments pick up the tab for regulations they are imposing. In addition, the subdivision and platting act was revised two years ago and has only been in effect for eighteen months. It is too soon to change it.

The majority of proponents behind HB #473 are former representative Bob Gilbert and a group of realtors and surveyors. Consequently this bill seems to benefit a small minority of interests.

I urge that you oppose the legislation.

Sincerely,



Park County

cc: Governor Marc Racicot

COUNTY OF RAVALLI

March 16, 1995

Senate Natural Resources Committee
Capitol Station
Helena, MT

Committee Members,

Your Committee is currently reviewing **House Bill 473** which would amend the state's subdivision rules. As a member of the Ravalli County Planning Board, I am concerned that this legislation will create more problems than it is intended to apparently fix.

General Comments:

1. The legislature in 1993 made major revisions to the subdivision regulations.
2. Based on statistics from the 20 fastest growing counties, over 97 percent of the subdivisions that were submitted for public review in 1994 were approved.
3. Based on the fiscal estimates attached to the legislation, it will cost local units of government over \$350,000 to comply with this new legislation if passed.

Question: Why is it necessary to again make changes at a great expense to local units of governments when the existing legislation is not creating problems for developers? If something is not broke, don't mess with it.

Limitation on Standing to Contest a Subdivision Decision (Section 10):

1. Within the last five years, there isn't a single case in Ravalli County where an aggrieved party has filed suit against the County for approving a subdivision.
2. The Planning Board has always encouraged people to participate in the subdivision review process and government in general.

Question: Why then, should you limit a citizen's only recourse to a potentially poor subdivision decision, when in fact this ability right now is not being abused? If something is not being abused, don't mess with it.

Changes to Parkland Dedication (Section 9):

1. Ravalli County is experiencing unprecedented growth and commensurate demands for public services, including recreational facilities.
2. The legislation would change the size of the parcel when a developer would have to provide land for recreational purposes from 10 acres to 5 acres.
3. This change would encourage developers to avoid park dedication requirements by creating parcels just over 5 acres.
4. A family on a 5.1-acre parcel will have the same demand for recreational facilities as the family living on a 4.9-acre parcel.

Question: Why would you want to limit the County's ability to provide recreational opportunities for the people who are buying these lots and are asking for appropriate facilities? This legislation would undermine a program that receives wide-spread citizen support throughout this county.

Based on these concerns and many others not outlined here, I urge you to vote against this legislation. Thank you for your sincere consideration.

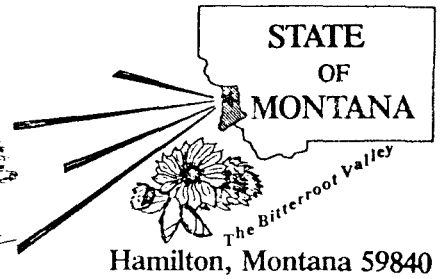
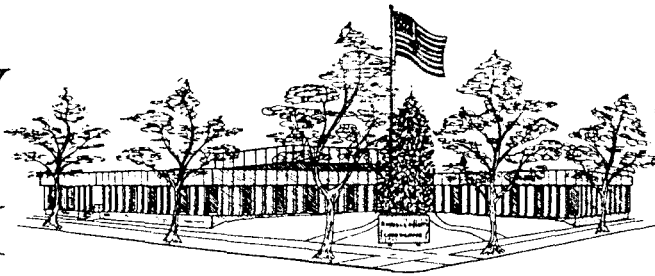
Sincerely,

Fred Buckle
Buckle

Ravalli County Planning Board Member

Joann Lasho
Mich Item
Days, Vapett

J. Knudson
L. Lennedell
R. Cann



SENATE NATURAL RESOURCES
EXHIBIT NO. 8
DATE 3-22-96
BILL NO. HB-473

852 WILLOUGHBY LANE
STEVENSVILLE, MT. 59870

MARCH 18, 1995

SENATE NATURAL RESOURCES

EXHIBIT NO. 9

DATE 3-22-96

BILL NO. HB-473

SENATE NATURAL RESOURCES COMMITTEE:

Please enter this for the record on HB 473 to
amend the Montana subdivision regulations.

I request you not add to the burden of local
governments in review and approval of subdivisions. Do
not restrict our local options, which already provide
almost no restrictions on subdivisions, to the
detriment of current taxpayers.

The primary action we do need from the state
is to tighten regulations on approval of groundwater
pumping and septic tank disposal. The current
regulations allow for a new residence to take
groundwater other people are using, and permit
groundwater pollution.

HB 473 as written should be rejected. Your
job is to protect Montana citizens, not the
profits of subdividers.

Sincerely,

Kirk Thompson

Ravalli County

Plainfield, B

March 13, 1995

Senate Natural Resource Committee, House Natural Resource Committee
Capital Station, Helena, Montana 59620-1706

SENATE NATURAL RESOURCES
EXHIBIT NO. 10
DATE 3-22-95
BILL NO. HB-473

RE: Vote No on SB330, SB331, SB382, SB252, SB362, HB440, HB521, HB338,
HB543, HB201, HB263, HB473

I am writing to say that I am profoundly concerned about the all out attack on the fundamental policies and laws protecting Montanan's right to a clean and healthy environment by Republicans in our state's legislature. I, and I think most Montana's, want less bureaucracy, effective use of tax dollars, and imaginative and visionary leadership. We do not want to leave our children the future bureaucratic nightmare and untold tax burden that a short sighted, profit motivated repeal of existing measures protecting our water and air quality and land use practices will bring.

Montana's do not have to look far to find glaring examples of environmental degradation resulting from the absences of such protective legislation. The Milltown dam holds enough sediment from past mining projects to cover downtown Missoula with 70 - 110 feet of arsenic, iron, and manganese contaminated sediments. Enough to keep the head water of the Missoula aquifer polluted for thousands of years.

The public expects local, state and federal governments to clearly ensure their right to breath clean air, drink clean water and have healthy fish and wildlife populations. But if the Republican's "New Contract with Montana" is nothing more than a gutting of these laws for the profit of extractive industries and land developers (an overwhelming number of whom are out of state interests here to make a quick profit), then they have sorely missed the political intent of Montana voters!

Show me a bad law that wastes tax payer dollars-- not a bill that by repealing the limits to the degradation of Montana's water and air quality allows extractive industries to increase profits as does SB330, SB331, HB543, and HB521. Show me a bad law that wastes tax payer dollars-- not a bill that would allow the massive clear cutting of state owned forest for the profit of timber interests while giving schools the lack of assurance of future funding as does HB201 and HB263. Show me a law that doesn't give away local control of land use issues while creating another unfunded mandate as does HB473 which favors land developers.

The cost of protecting our state's water and air quality are real. They may also limit short term profits of extractive industries, but so be it. The cost of not protecting our environment is rarely balanced in this equation and may be even more costly. These are challenging times we live in. Old answers rarely fit. Yet the Republican's facade of bold new leadership to "save tax dollars" by selling our rights to a clean and healthful environment to extractive industries and big land developers will not fool most Montanans. The challenge to Republicans and Democrats alike is promote sustainable development calling on the stewardship responsibilities of citizens and businesses to preserve the quality of life Montanan's hold dear.

Mary Flowers
Farm to Market Rd
Whitefish, MT 59937

March 16, 1995

Senator Lorents Grosfield, Chairman
Senate Natural Resources Committee
Capital Station
Helena, MT 59620-1706

SENATE NATURAL RESOURCES
EXHIBIT NO. 11
DATE 3-22-95
BILL NO. HB-473

RE: VOTE AGAINST HB #473 - PROPOSED SUBDIVISION LEGISLATION

Dear Senator Grosfield and Committee Members:

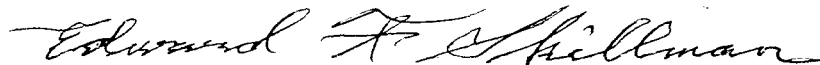
As a local planning board member I urge you to vote against HB #473. Subdivision review is one of the primary responsibilities of local planning boards. We spend a great deal of voluntary time and effort to make Montana a better place to live.

Two years ago the Montana Subdivision and platting Act was revised for the first time in twenty years. Planning boards spent many hours conducting public hearings, drafting language and making recommendations to County Commissioners on subdivision regulations. Many of them also attended training sessions on how the new law affected their decisions. There has been no demonstrated problem in this jurisdiction with current subdivision law.

If adopted, HB #473 will create an unfunded mandate to local governments. Once again planning board members would be asked to spend volunteer time and effort developing regulations, attending training workshops, and holding public hearings. Is state government going to provide funds for my additional trains costs?

It is my feeling as a local planning board member that there is no need to change the existing state subdivision law, and urge you to oppose HB #473.

Sincerely,



Park County Planning Board

cc: Governor Marc Racicot

Richard D. Idler
Land Use Counselor
P.O. Box 1631
Bigfork, Montana 59911
March 17, 1995

SENATE NATURAL RESOURCES
EXHIBIT NO. 12
DATE 3-22-95
BILL NO. 17 B-473

The Honorable Lorents Grosfield
Montana State Senate
P.O. Box 201702
State Capitol
Helena, MT 59620 1702

Re: Bill 473 Senate Natural Resources Committee

Dear Senator Grosfield:

I'm leaving for Colorado this afternoon and am anxious to get my remarks to you concerning Bill 473.

Since time allotted for testimony expired before I was heard on March 15, I respectfully request that the enclosed information be circulated to committee members for their consideration prior to your executive session on this matter.

As you can tell I have grave reservations on the proposed changes to the reforms that were incorporated in the 1993 legislation. The purpose of subdivision regulations is to protect the health, safety, and welfare of the public at large. It is not to assure that real estate agents can close "deals" and get commissions within a shorter time frame.

Sincerely,


Richard D. Idler

cc: Office of the Governor

DATE 3-22-95

SENATE COMMITTEE ON Natural Resources

BILLS BEING HEARD TODAY: HB 412, HB-473

Open Action

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
WARREN P. LATVALA	SELF, MARLS	473	✓	
Dexter Belsby	MT. Refining	412	✓	
Dave Cogley	Self-MBIA	473	✓	
W ^m Spilken	Self-MAR	473	✓	
Rick Gustina	MARLS	473	—	
Robert Queen	self	473	✓	
Kathy Macfield	City of Helena	473		X
Jim Richards	MT assoc. Planners	473	✓	
Ted Lange	NPRC.	473		X
J.V. Bennett	MontPIRG	412		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 3-22-95 BILL NO. HB 473 NUMBER 1

MOTION: To Adopt AMENDMENT
No hb 0473. amkr

PASSED 7-4

NAME	AYE	NO
VIVIAN BROOKE		X
B.F. "CHRIS" CHRISTIAENS		X
MACK COLE	X	
WILLIAM CRISMORE	X	
MIKE FOSTER	X	
TOM KEATING	X	
KEN MILLER	X	
JEFF WELDON		X
BILL WILSON		X
LARRY TVEIT, VICE CHAIRMAN	X	
LORENTS GROSFIELD, CHAIRMAN	X	

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 3-22-95 BILL NO. 14B-473 NUMBER 2

MOTION: To Adopt AMENDMENT # hb 043701.amk

PASSED

7-4

NAME	AYE	NO
VIVIAN BROOKE		X
B.F. "CHRIS" CHRISTIAENS		X
MACK COLE	X	
WILLIAM CRISMORE	X	
MIKE FOSTER	X	
TOM KEATING	X	
KEN MILLER	X	
JEFF WELDON		X
BILL WILSON		X
LARRY TVEIT, VICE CHAIRMAN	X	
LORENTS GROSFIELD, CHAIRMAN	X	

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 3-22-95 BILL NO. HB-473 NUMBER 3

MOTION: TO ADOPT Amendment

h6047305. am12

NO's 9-13 PASSED 7-4

NAME	AYE	NO
VIVIAN BROOKE		X
B.F. "CHRIS" CHRISTIAENS		X
MACK COLE	X	
WILLIAM CRISMORE	X	
MIKE FOSTER	X	
TOM KEATING	X	
KEN MILLER	X	
JEFF WELDON		X
BILL WILSON		X
LARRY TVEIT, VICE CHAIRMAN	X	
LORENTS GROSFIELD, CHAIRMAN	X	

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 3-22-95 BILL NO. _____ NUMBER 4

MOTION: To ADOPT Amendment

No 14

CARRIED 7-4

NAME	AYE	NO
VIVIAN BROOKE		X
B.F. "CHRIS" CHRISTIAENS		X
MACK COLE	X	
WILLIAM CRISMORE	X	
MIKE FOSTER	X	
TOM KEATING	X	
KEN MILLER	X	
JEFF WELDON		X
BILL WILSON		X
LARRY TVEIT, VICE CHAIRMAN	X	
LORENTS GROSFIELD, CHAIRMAN	X	

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 3-22-95 BILL NO. HB 473 NUMBER 5

MOTION: TO ADOPT AMENDMENT

17

CARRIED 6-5

NAME	AYE	NO
VIVIAN BROOKE		X
B.F. "CHRIS" CHRISTIAENS		X
MACK COLE	X	
WILLIAM CRISMORE	X	
MIKE FOSTER	X	
TOM KEATING		X
KEN MILLER	X	
JEFF WELDON		X
BILL WILSON		X
LARRY TVEIT, VICE CHAIRMAN	X	
LORENTS GROSFIELD, CHAIRMAN	X	

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 3.22.95 BILL NO. HB 473 NUMBER 6

MOTION: To Adopt Amendments

18, 20, 23, 24, 25, 26, 27 CARRIED 7.

NAME	AYE	NO
VIVIAN BROOKE		X
B.F. "CHRIS" CHRISTIAENS		X
MACK COLE	X	
WILLIAM CRISMORE	X	
MIKE FOSTER	X	
TOM KEATING	X	
KEN MILLER	X	
JEFF WELDON		X
BILL WILSON		X
LARRY TVEIT, VICE CHAIRMAN	X	
LORENTS GROSFIELD, CHAIRMAN	X	

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 3-22-95 BILL NO. HB-473 NUMBER 7

MOTION: To Adopt Amendment

19

CARRIED 6-4

NAME	AYE	NO
VIVIAN BROOKE		X
B.F. "CHRIS" CHRISTIAENS		X
MACK COLE	X	
WILLIAM CRISMORE	X	
MIKE FOSTER	X	
TOM KEATING	X	
KEN MILLER	X	
JEFF WELDON		X
BILL WILSON		X
LARRY TVEIT, VICE CHAIRMAN		
LORENTS GROSFIELD, CHAIRMAN	X	

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 3-22-95 BILL NO. HB-473 NUMBER 8

MOTION: To Adopt Amendment

21

PASSED 6-4

NAME	AYE	NO
VIVIAN BROOKE		X
B.F. "CHRIS" CHRISTIAENS		X
MACK COLE	X	
WILLIAM CRISMORE	X	
MIKE FOSTER	X	
TOM KEATING	X	
KEN MILLER	X	
JEFF WELDON		X
BILL WILSON		X
LARRY TVEIT, VICE CHAIRMAN		
LORENTS GROSFIELD, CHAIRMAN	X	

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 3-23-95 BILL NO. HB-473 NUMBER 9

MOTION: To Adopt Amendment

Striking Line 18 subsection (b) Page 8

PASSED 6-4

NAME	AYE	NO
VIVIAN BROOKE		X
B.F. "CHRIS" CHRISTIAENS		X
MACK COLE	X	
WILLIAM CRISMORE	X	
MIKE FOSTER	X	
TOM KEATING	X	
KEN MILLER	X	
JEFF WELDON		X
BILL WILSON		X
LARRY TVEIT, VICE CHAIRMAN		
LORENTS GROSFIELD, CHAIRMAN	X	

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 3-22-95 BILL NO. 128-473 NUMBER 10

MOTION: To Adopt Amendment

30 + Adding "private" and Amendment

31 striking "material"

CARRIED 6-4

NAME	AYE	NO
VIVIAN BROOKE		X
B.F. "CHRIS" CHRISTIAENS		X
MACK COLE	X	
WILLIAM CRISMORE	X	
MIKE FOSTER	X	
TOM KEATING	X	
KEN MILLER	X	
JEFF WELDON		X
BILL WILSON		X
LARRY TVEIT, VICE CHAIRMAN		
LORENTS GROSFIELD, CHAIRMAN	X	

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 3-22-95 BILL NO. HB-473 NUMBER 11

MOTION: To 17dept AMENDMENT

No hb 047303. amk

CARRIED 6-4

NAME	AYE	NO
VIVIAN BROOKE		X
B.F. "CHRIS" CHRISTIAENS		X
MACK COLE	X	
WILLIAM CRISMORE	X	
MIKE FOSTER	X	
TOM KEATING	X	
KEN MILLER	X	
JEFF WELDON		X
BILL WILSON		X
LARRY TVEIT, VICE CHAIRMAN		
LORENTS GROSFIELD, CHAIRMAN	X	

MONTANA SENATE
1995 LEGISLATURE
NATURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 3-22-95 BILL NO. HB-473 NUMBER 12

MOTION: TO CONCUR IN HB473

175 AMENDED

CARRIED 7-4

NAME	AYE	NO
VIVIAN BROOKE		X
B.F. "CHRIS" CHRISTIAENS		X
MACK COLE	X	
WILLIAM CRISMORE	X	
MIKE FOSTER	X	
TOM KEATING	X	
KEN MILLER	X	
JEFF WELDON		X
BILL WILSON		X
LARRY TVEIT, VICE CHAIRMAN	X	
LORENTS GROSFIELD, CHAIRMAN	X	