

1 House BILL NO. 641
 2 INTRODUCED BY Bradley N. May
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE LICENSING
 5 REQUIREMENTS AND PROCEDURES FOR ENVIRONMENTAL CONSULTANTS;
 6 TO CREATE A BOARD OF ENVIRONMENTAL CONSULTING; AND TO
 7 PROVIDE PENALTIES."

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

10 Section 1. Short title. This act shall be known as
 11 the "Montana Environmental Consultant Licensing and
 12 Regulation Act".

13 Section 2. Legislative policy. The legislature finds
 14 and declares that the natural, physical, and social sciences
 15 have important and valuable insights to offer in the course
 16 of environmental decision-making; that the business of
 17 environmental consulting, if properly regulated, can make an
 18 important contribution to sound environmental quality
 19 decision-making in this state; that there exist no
 20 regulations, performance, or license requirements in the
 21 state currently applicable to the profession as a whole;
 22 that regulation of environmental consulting will contribute
 23 to the public health, safety, general welfare, and the
 24 public interest; and that there is a compelling state
 25 interest in the regulation of environmental consulting fo.

1 profit.
 2 Section 3. Definitions. As used in this act:
 3 (1) "Board" is the board of environmental consulting.
 4 (2) "Contract" means a contract or agreement between
 5 an environmental consultant and a private party concerning
 6 activities covered by this act.
 7 (3) "Contracted study" is the substance of work done
 8 by an environmental consultant provided for in section 5 of
 9 this act.
 10 (4) "Contractor" is any person seeking or retaining
 11 the services of an environmental consultant for consulting
 12 work covered by this act.
 13 (5) "Consultant" is a person who practices
 14 environmental consulting in this state.
 15 (6) "Department" is the department of professional and
 16 occupational licensing.
 17 (7) "Environmental consulting" includes the variety of
 18 professions that provide environmental and/or economic
 19 assessment services for profit to private parties. These
 20 professions include, but are not limited to, architecture,
 21 anthropology, engineering, economics, sociology, political
 22 science, botany, biology, geology, zoology, hydrology,
 23 chemistry and forestry. Environmental consulting does not
 24 include work done by or on behalf of a nonprofit public
 25 interest corporation or governmental agency; nor does it

1 include legal consultation.

2 (8) "Person" means a person, partnership, corporation,
3 association, or other legal entity, except subdivisions or
4 agencies of the state.

5 Section 4. Board of environmental consulting created
6 -- powers and duties. There is created within the
7 department a board of environmental consulting. The board
8 shall generally supervise the conduct of environmental
9 consulting on activities in this state covered by this act
10 and shall:

11 (1) maintain departmental files under this act;

12 (2) adopt, after hearing, by September 1, 1975, rules
13 for the professional licensing of environmental consultants
14 doing business or seeking to do business in this state, in
15 order to prevent consultant conflicts of interest, and for
16 the notification concerning and prosecution of violations of
17 this act;

18 (3) prepare and make available model contract and
19 contract amendment forms for the use of contractors and
20 consultants;

21 (4) adopt rules for the assessment of the adequacy of
22 contracts and environmental consulting completed under this
23 act;

24 (5) make any other necessary rules that reasonably
25 effectuate the purposes of this act, including reasonable

1 fees for initial licensing and annual renewals;

2 (6) investigate, by hearing or otherwise, complaints
3 filed concerning the practice of environmental consulting;

4 (7) report to the legislature on compliance with this
5 act; and

6 (8) coordinate its work so as to reduce duplication
7 with any other board duly authorized to regulate any of the
8 professions defined as environmental consulting by this act;
9 provided, however, that the provisions of this act are
10 supplementary to existing regulations.

11 Section 5. Contracts for environmental consulting to
12 be filed with the department. Consultants engaging in
13 environmental consulting on matters that require state or
14 local government approval, licensing, permit, lease, or
15 other entitlement, approval or participation or that might
16 constitute major actions with significant effects under the
17 provisions of 69-6501 et seq., shall comply with the
18 following requirements: (1) A contract shall be prepared
19 detailing the precise nature of the consulting work to be
20 performed.

21 (2) The contract shall contain the names and addresses
22 of the contracting parties, a brief description of the
23 project to which the consulting work is relevant, the
24 anticipated time period for completion of the study, and any
25 pertinent conditions restricting the scope of the

1 consultant's inquiry.

2 (3) Within ten (10) days of the completion of the
3 contract, it shall be filed with the department and shall be
4 available for public inspection.

5 (4) Any material change in the consultant work or
6 conditions shall be reflected in a contract amendment
7 prepared and filed in accordance with the provisions of this
8 section.

9 Section 6. Determination by agencies of possible
10 conflict of interest -- filing of consulting needs with
11 department. Agencies of state government shall establish
12 forms and procedures for the expeditious, advanced
13 determination of whether proposed consulting activities
14 relate to work that requires governmental approval or a
15 license, permit, lease, or other entitlement approval or
16 participation or that constitutes a major action with
17 significant effects as defined in the Montana Environmental
18 Policy Act. This determination shall be for the purposes of
19 this act only and shall not in itself constitute a major
20 action with significant effects; nor shall it bind
21 subsequent agency determinations as to the preparation of
22 environmental impact statements. The board shall assist
23 persons seeking to identify the proper agencies from which
24 to receive a determination. The determination shall be
25 filed within ten (10) days with the department.

1 Section 7. Requirements for contracted studies. All
2 contracted studies shall include the following: (1) an
3 impartial, professional study of the contracted material;

4 (2) an outline of mitigative steps within the
5 expertise of the consultant that would reduce the impact of
6 the studied proposal;

7 (3) an explicit discussion of the limitations of the
8 analysis available or selected methodologies, and findings
9 of the report;

10 (4) a list of those responsible for the preparation of
11 the report together with their professional backgrounds; and

12 (5) an appendix outlining, within the consultant's
13 expertise, the overall propriety of the project under study,
14 such appendix to be prepared by the consultant and attached
15 by the contractor to the study in unaltered form for filing.

16 Section 8. Contracted studies to be filed with
17 department. A certified copy of each contracted study shall
18 be filed with the department within ten (10) days after
19 completion. It is the intent of this act that contracted
20 studies shall be available for timely governmental and
21 public review. No contract shall be drafted so as to
22 circumvent this intent.

23 Section 9. Reports of consulting done to be filed
24 annually with department. Consultants shall file, by
25 January 1 of each year, a report listing the names of all

1 contractors for whom environmental consulting was done
2 within the state of Montana.

3 Section 10. Environmental consulting without a license
4 prohibited. After November 1, 1975, no person shall engage
5 in environmental consulting as defined in section 3(7)
6 unless he has first obtained the license required by section
7 4 of this act; nor shall any consultant engage in
8 environmental consulting in which he has a financial
9 interest beyond his salary and reasonable expenses for
10 professional services.

11 Section 11. Penalties. (1) Any person violating the
12 provisions of this act shall be guilty of a misdemeanor and
13 shall be subject to a fine not to exceed five hundred
14 dollars (\$500).

15 (2) Any person duly notified that he is in violation
16 of the provisions of this act shall proceed forthwith to
17 compliance. Failure to do so constitutes willful violation
18 and is punishable by a fine not to exceed one thousand
19 dollars (\$1000). Repeated willful violation is grounds for
20 revocation of license to practice environmental consulting
21 in this state.

22 Section 12. Severability. If a part of this act is
23 invalid, all valid parts that are severable from the invalid
24 part remain in effect. If a part of this act is invalid in
25 one or more of its applications, the part remains in effect

1 in all valid applications that are severable from the
2 invalid applications.

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