

1 SENATE BILL NO. 193

2 INTRODUCED BY NORMAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE OFF-STREET
5 PARKING LAW; ENABLING PARKING COMMISSIONS TO PROVIDE
6 COORDINATED REGULATION OF ON-STREET AS WELL AS OFF-STREET
7 PARKING; PROVIDING FOR VARIABLE SIZE OF PARKING COMMISSIONS
8 WHERE DESIRED; INCREASING PERMISSIBLE GROUND FLOOR AREA OF
9 PARKING BUILDINGS FOR INCIDENTAL USES; DELETING REQUIREMENT
10 OF TRIPLING PARKING AREA NECESSARY FOR ACQUISITION OF LANDS
11 ALREADY USED FOR PARKING; AMENDING SECTIONS 11-3701,
12 11-3704, 11-3707, AND 11-3708, R.C.M. 1947."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. The chapter heading of Title II, chapter 37
16 is hereby amended to read as follows:

17 "~~OFF-STREET~~ PARKING FACILITIES"

18 Section 2. Section 11-3701, R.C.M. 1947, is amended to
19 read as follows:

20 "11-3701. Purpose of act. It is hereby determined and
21 declared that excessive curb parking of motor vehicles in
22 urban and metropolitan areas, and the lack of adequate
23 off-street parking facilities in some cities, is against the
24 public interest; and the purpose of this act is to provide
25 means whereby cities, in which additional off-street parking

1 facilities is considered necessary, may obtain and provide
2 same, and whereby such cities may regulate on-street and
3 off-street parking in a coordinated manner."

4 Section 3. Section 11-3704, R.C.M. 1947, is amended to
5 read as follows:

6 "11-3704. Members of commission--appointment--
7 qualifications--vesting of commission powers--expenses and
8 compensation--term of office--chairman--removal. When the
9 legislative body of a city first adopts a resolution
10 declaring need for a parking commission to function, the
11 mayor, with the approval of the legislative body, shall
12 appoint not less than five (5) nor more than seven (7)
13 electors of the city as members of the commission. The
14 number of members of such commission, once established, may
15 be changed within these limits from time to time as desired
16 by subsequent resolutions of the legislative body of the
17 city, provided, however, that a resolution to reduce shall
18 not require resignation of any member prior to completion of
19 his appointed term. The powers of each commission shall be
20 vested in the members thereof then in office. Members shall
21 receive their actual and necessary expenses, including
22 traveling expenses and may receive such other compensation
23 as the legislative body may prescribe.

24 Three of the members who are first appointed shall be
25 designated to serve for terms of one, two, and three years,

INTRODUCED BILL

1 respectively, from the date of their appointments, and two
 2 shall be designated to serve for terms of four years from
 3 the date of their appointments, except that for a seven (7)
 4 member commission there shall be two additional appointments
 5 of two (2) years and three (3) years respectively.

6 Thereafter members shall be appointed as aforesaid for a
 7 term of office of four years, except that all vacancies
 8 occurring during a term shall be filled for the unexpired
 9 term. A member shall hold office until his successor has
 10 been appointed and has qualified.

11 The appointing officer shall designate which of the
 12 members of the commission shall be the first chairman, but
 13 when the office of chairman of the commission becomes vacant
 14 thereafter, the commission shall elect a chairman from among
 15 its members. The term of office as chairman of the
 16 commission, unless otherwise prescribed by the legislative
 17 body of the city, shall be for the calendar year, or for
 18 that portion thereof remaining after each such chairman is
 19 designated or elected.

20 A member of a commission may be removed by the mayor
 21 with the consent of the legislative body of the city."

22 Section 4. Section 11-3707, R.C.M. 1947, is amended to
 23 read as follows:

24 "11-3707. Commission a public body--powers specified.
 25 Each commission shall constitute a public body, corporate

1 and politic, exercising public and essential governmental
 2 function, and subject to the limitations imposed by this
 3 act, shall have the following powers in addition to the
 4 others herein granted:

5 (a) To sue and be sued; to have a seal; to make and
 6 execute contracts and other instruments necessary or
 7 convenient to the exercise of its powers.

8 (b) To make, and from time to time amend and repeal
 9 bylaws, rules and regulations not inconsistent with this act
 10 to carry into effect the powers and purposes thereof.

11 (c) To select and appoint or remove such officers,
 12 agents, counsel and employees, permanent and temporary, as
 13 it may require, and to determine their qualifications,
 14 duties and compensation. The powers of the commission under
 15 this subsection (c) shall be subject to all limitations and
 16 rights applicable to similar employment by the city, unless
 17 the legislative body, by resolution, shall otherwise
 18 determine.

19 (d) For the purpose of off-street parking, to purchase,
 20 lease, obtain option upon, acquire by gift, grant, bequest,
 21 devise or otherwise, any real or personal property, or any
 22 interest therein, together with any improvements thereon; to
 23 acquire by the exercise of the power of eminent domain any
 24 property in accordance with the applicable provisions of the
 25 law of eminent domain, except that no property of a state

1 public body may be acquired without its consent, upon
 2 approval of the city council; to sell, lease, exchange,
 3 transfer, assign, or otherwise dispose of any real or
 4 personal property or any interest therein, provided such
 5 transactions are for off-street parking purposes; to lay
 6 out, open, extend, widen, straighten, establish, or change
 7 the grade, in whole or in part, of public parking facilities
 8 and public rights of way necessary or convenient therefor;
 9 to insure or provide for the insurance of any real or
 10 personal property or operations of the commission against
 11 risks or hazards; to acquire, construct, rent, lease,
 12 maintain, and repair, such real and personal property, or
 13 any portion thereof either on behalf of the commission or as
 14 an agent of the city, including the leasing of the operation
 15 thereof, the leasing for incidental commercial purposes of
 16 surplus space or space which it is not economical to use for
 17 parking purposes, and as an incident to the operation of any
 18 parking facility, when in the judgment of the commission it
 19 is convenient or necessary to permit such use in order to
 20 utilize properly such land as a parking facility, provided
 21 that the city or parking commission shall be prohibited from
 22 operating any such additional, secondary and incidental
 23 facilities; provided, however, that such incidental use or
 24 uses must be secondary to the primary use as a parking
 25 facility, ~~and in any event the portion of the land devoted~~

1 ~~to such incidental use or uses shall not exceed ten per cent~~
 2 ~~of the surface area of such property,~~ and if a building is
 3 erected on such property for the purpose of parking motor
 4 vehicles, then such incidental use or uses of such building
 5 shall ~~not occupy more than ten per cent of the floor area~~ be
 6 confined to the street level and/or below street level of
 7 such building, and such incidental use or uses at street
 8 level may occupy the entire surface area of the property
 9 less that area required for vehicular and pedestrian
 10 movement if at least two higher levels each of equal or
 11 greater area are devoted entirely to parking purposes;
 12 provided that other provisions notwithstanding, the
 13 commission or the city may lease air rights above such
 14 building; provided, further, that the commission or the city
 15 shall lease such space to private operators at rates
 16 comparable to the existing market rate for similar taxable
 17 space at the location; to receive, control, and order the
 18 expenditure of, any and all moneys and funds pertaining to
 19 parking facilities or related properties, including, without
 20 limiting the generality of this provision, (i) all revenues
 21 derived from operations of the commission, (ii) all money
 22 appropriated or made available by the city pursuant to
 23 section 11-3707, or otherwise, (iii) the proceeds of all
 24 financial aid or assistance by the city, federal or state
 25 governments, (iv) the proceeds of assessments levied, (v)

1 the proceeds of all revenue bonds issued pursuant to this
2 act by the city for parking facilities.

3 (e) To regulate on-street parking where it remains in
4 use, in coordination with off-street parking, subject to
5 traffic regulations imposed by the state; such parking
6 regulations may include, without limiting the generality of
7 this provision, the determination of (i) parking locations,
8 (ii) variable parking durations, (iii) variable parking rate
9 schedules, and (iv) enforcement policies and procedures.

10 ~~(e)~~ (f) To invest any funds held in reserve or sinking
11 funds or any funds not required for immediate disbursement
12 in property or securities in which cities may legally invest
13 funds subject to their control, but no such investment shall
14 be made in contravention of any covenant or agreement made
15 with the holders of any revenue bonds of the commission
16 theretofore issued and then outstanding.

17 ~~(f)~~ (g) To exercise all or any part or combination of
18 the powers herein granted.

19 ~~(g)~~ (h) To do and perform any and all other acts and
20 things necessary, convenient, desirable or appropriate to
21 carry out the provisions of this act."

22 Section 5. Section 11-3708, R.C.M. 1947, is amended to
23 read as follows:

24 "11-3708. Acquisition of existing parking facilities.
25 ~~--limitation.~~ No existing parking facility shall be acquired

1 by the exercise of the power of eminent domain by a
2 commission or the city except after public hearing following
3 notice of the date, time, place, and purpose of such hearing
4 published once not less than ten nor more than twenty days
5 prior to the date of such hearing, ~~provided, however, that~~
6 ~~no property being used as a facility or facilities for the~~
7 ~~parking and/or storing of motor vehicles shall be acquired~~
8 ~~by a commission as heretofore provided by this act, unless~~
9 ~~the project to be furnished or constructed by a commission~~
10 ~~which necessitates the acquisition of such parking facility~~
11 ~~or facilities will encompass an area of land and parking~~
12 ~~area not less than three (3) times the area of land and~~
13 ~~parking area encompassed by the existing parking facility."~~

-End-

Approved by Comm.
on Local Government

SENATE BILL NO. 193

INTRODUCED BY NORMAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE OFF-STREET PARKING LAW; ENABLING PARKING COMMISSIONS TO PROVIDE COORDINATED REGULATION OF ON-STREET AS WELL AS OFF-STREET PARKING; PROVIDING FOR VARIABLE SIZE OF PARKING COMMISSIONS WHERE DESIRED; INCREASING PERMISSIBLE GROUND FLOOR AREA OF PARKING BUILDINGS FOR INCIDENTAL USES; DELETING REQUIREMENT OF TRIPLING PARKING AREA NECESSARY FOR ACQUISITION OF LANDS ALREADY USED FOR PARKING; AMENDING SECTIONS 11-3701, 11-3704, 11-3707, AND 11-3708, R.C.M. 1947."

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

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~~"OFF-STREET~~ PARKING FACILITIES"

Section 2. Section 11-3701, R.C.M. 1947, is amended to read as follows:

"11-3701. Purpose of act. It is hereby determined and declared that excessive curb parking of motor vehicles in urban and metropolitan areas, and the lack of adequate off-street parking facilities in some cities, is against the public interest; and the purpose of this act is to provide means whereby cities, in which additional off-street parking

facilities is considered necessary, may obtain and provide same, and whereby such cities may regulate on-street and off-street parking in a coordinated manner."

Section 3. Section 11-3704, R.C.M. 1947, is amended to read as follows:

"11-3704. Members of commission--appointment--qualifications--vesting of commission powers--expenses and compensation--term of office--chairman--removal. When the legislative body of a city first adopts a resolution declaring need for a parking commission to function, the mayor, with the approval of the legislative body, shall appoint not less than five (5) nor more than seven (7) electors of the city as members of the commission. The number of members of such commission, once established, may be changed within these limits from time to time as desired by subsequent resolutions of the legislative body of the city, provided, however, that a resolution to reduce shall not require resignation of any member prior to completion of his appointed term. The powers of each commission shall be vested in the members thereof then in office. Members shall receive their actual and necessary expenses, including traveling expenses and may receive such other compensation as the legislative body may prescribe.

Three of the members who are first appointed shall be designated to serve for terms of one, two, and three years,

1 respectively, from the date of their appointments, and two
 2 shall be designated to serve for terms of four years from
 3 the date of their appointments, except that for a seven (7)
 4 member commission there shall be two additional appointments
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 7 term of office of four years, except that all vacancies
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 9 term. A member shall hold office until his successor has
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 14 thereafter, the commission shall elect a chairman from among
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 17 body of the city, shall be for the calendar year, or for
 18 that portion thereof remaining after each such chairman is
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20 A member of a commission may be removed by the Mayor
 21 with the consent of the legislative body of the city."

22 Section 4. Section 11-3707, R.C.M. 1947, is amended to
 23 read as follows:

24 "11-3707. Commission a public body--powers specified.
 25 Each commission shall constitute a public body, corporate

1 and politic, exercising public and essential governmental
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 18 determine.

19 (d) For the purpose of off-street parking, to purchase,
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 21 devise or otherwise, any real or personal property, or any
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 8 and public rights of way necessary or convenient therefor;
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 15 thereof, the leasing for incidental commercial purposes of
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2 INTRODUCED BY NORMAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE OFF-STREET
5 PARKING LAW; ENABLING PARKING COMMISSIONS TO PROVIDE
6 COORDINATED REGULATION OF ON-STREET AS WELL AS OFF-STREET
7 PARKING; PROVIDING FOR VARIABLE SIZE OF PARKING COMMISSIONS
8 WHERE DESIRED; INCREASING PERMISSIBLE GROUND FLOOR AREA OF
9 PARKING BUILDINGS FOR INCIDENTAL USES; DELETING REQUIREMENT
10 OF TRIPLING PARKING AREA NECESSARY FOR ACQUISITION OF LANDS
11 ALREADY USED FOR PARKING; AMENDING SECTIONS 11-3701,
12 11-3704, 11-3707, AND 11-3708, R.C.M. 1947."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. The chapter heading of Title II, chapter 37
16 is hereby amended to read as follows:

17 "~~OFF-STREET~~ PARKING FACILITIES"

18 Section 2. Section 11-3701, R.C.M. 1947, is amended to
19 read as follows:

20 "11-3701. Purpose of act. It is hereby determined and
21 declared that excessive curb parking of motor vehicles in
22 urban and metropolitan areas, and the lack of adequate
23 off-street parking facilities in some cities, is against the
24 public interest; and the purpose of this act is to provide
25 means whereby cities, in which additional off-street parking

1 facilities is considered necessary, may obtain and provide
2 same, and whereby such cities may regulate on-street and
3 off-street parking in a coordinated manner."

4 Section 3. Section 11-3704, R.C.M. 1947, is amended to
5 read as follows:

6 "11-3704. Members of commission--appointment--
7 qualifications--vesting of commission powers--expenses and
8 compensation--term of office--chairman--removal. When the
9 legislative body of a city first adopts a resolution
10 declaring need for a parking commission to function, the
11 mayor, with the approval of the legislative body, shall
12 appoint not less than five (5) nor more than seven (7)
13 electors of the city as members of the commission. The
14 number of members of such commission, once established, may
15 be changed within these limits from time to time as desired
16 by subsequent resolutions of the legislative body of the
17 city, provided, however, that a resolution to reduce shall
18 not require resignation of any member prior to completion of
19 his appointed term. The powers of each commission shall be
20 vested in the members thereof then in office. Members shall
21 receive their actual and necessary expenses, including
22 traveling expenses and may receive such other compensation
23 as the legislative body may prescribe.

24 Three of the members who are first appointed shall be
25 designated to serve for terms of one, two, and three years,

1 respectively, from the date of their appointments, and two
 2 shall be designated to serve for terms of four years from
 3 the date of their appointments, except that for a seven (7)
 4 member commission there shall be two additional appointments
 5 of two (2) years and three (3) years respectively.

6 Thereafter members shall be appointed as aforesaid for a
 7 term of office of four years, except that all vacancies
 8 occurring during a term shall be filled for the unexpired
 9 term. A member shall hold office until his successor has
 10 been appointed and has qualified.

11 The appointing officer shall designate which of the
 12 members of the commission shall be the first chairman, but
 13 when the office of chairman of the commission becomes vacant
 14 thereafter, the commission shall elect a chairman from among
 15 its members. The term of office as chairman of the
 16 commission, unless otherwise prescribed by the legislative
 17 body of the city, shall be for the calendar year, or for
 18 that portion thereof remaining after each such chairman is
 19 designated or elected.

20 A member of a commission may be removed by the mayor
 21 with the consent of the legislative body of the city."

22 Section 4. Section 11-3707, R.C.M. 1947, is amended to
 23 read as follows:

24 "11-3707. Commission a public body--powers specified.
 25 Each commission shall constitute a public body, corporate

1 and politic, exercising public and essential governmental
 2 function, and subject to the limitations imposed by this
 3 act, shall have the following powers in addition to the
 4 others herein granted:

5 (a) To sue and be sued; to have a seal; to make and
 6 execute contracts and other instruments necessary or
 7 convenient to the exercise of its powers.

8 (b) To make, and from time to time amend and repeal
 9 bylaws, rules and regulations not inconsistent with this act
 10 to carry into effect the powers and purposes thereof.

11 (c) To select and appoint or remove such officers,
 12 agents, counsel and employees, permanent and temporary, as
 13 it may require, and to determine their qualifications,
 14 duties and compensation. The powers of the commission under
 15 this subsection (c) shall be subject to all limitations and
 16 rights applicable to similar employment by the city, unless
 17 the legislative body, by resolution, shall otherwise
 18 determine.

19 (d) For the purpose of off-street parking, to purchase,
 20 lease, obtain option upon, acquire by gift, grant, bequest,
 21 devise or otherwise, any real or personal property, or any
 22 interest therein, together with any improvements thereon; to
 23 acquire by the exercise of the power of eminent domain any
 24 property in accordance with the applicable provisions of the
 25 law of eminent domain, except that no property of a state

1 public body may be acquired without its consent, upon
 2 approval of the city council; to sell, lease, exchange,
 3 transfer, assign, or otherwise dispose of any real or
 4 personal property or any interest therein, provided such
 5 transactions are for off-street parking purposes; to lay
 6 out, open, extend, widen, straighten, establish, or change
 7 the grade, in whole or in part, of public parking facilities
 8 and public rights of way necessary or convenient therefor;
 9 to insure or provide for the insurance of any real or
 10 personal property or operations of the commission against
 11 risks or hazards; to acquire, construct, rent, lease,
 12 maintain, and repair, such real and personal property, or
 13 any portion thereof either on behalf of the commission or as
 14 an agent of the city, including the leasing of the operation
 15 thereof, the leasing for incidental commercial purposes of
 16 surplus space or space which it is not economical to use for
 17 parking purposes, and as an incident to the operation of any
 18 parking facility, when in the judgment of the commission it
 19 is convenient or necessary to permit such use in order to
 20 utilize properly such land as a parking facility, provided
 21 that the city or parking commission shall be prohibited from
 22 operating any such additional, secondary and incidental
 23 facilities; provided, however, that such incidental use or
 24 uses must be secondary to the primary use as a parking
 25 facility, ~~and in any event the portion of the land devoted~~

1 ~~to such incidental use or uses shall not exceed ten per cent~~
 2 ~~of the surface area of such property,~~ and if a building is
 3 erected on such property for the purpose of parking motor
 4 vehicles, then such incidental use or uses of such building
 5 shall ~~not occupy more than ten per cent of the floor area~~ be
 6 confined to the street level and/or below street level of
 7 such building, and such incidental use or uses at street
 8 level may occupy the entire surface area of the property
 9 less that area required for vehicular and pedestrian
 10 movement if at least two higher levels each of equal or
 11 greater area are devoted entirely to parking purposes;
 12 provided that other provisions notwithstanding, the
 13 commission or the city may lease air rights above such
 14 building; provided, further, that the commission or the city
 15 shall lease such space to private operators at rates
 16 comparable to the existing market rate for similar taxable
 17 space at the location; to receive, control, and order the
 18 expenditure of, any and all moneys and funds pertaining to
 19 parking facilities or related properties, including, without
 20 limiting the generality of this provision, (i) all revenues
 21 derived from operations of the commission, (ii) all money
 22 appropriated or made available by the city pursuant to
 23 section 11-3707, or otherwise, (iii) the proceeds of all
 24 financial aid or assistance by the city, federal or state
 25 governments, (iv) the proceeds of assessments levied, (v)

1 the proceeds of all revenue bonds issued pursuant to this
2 act by the city for parking facilities.

3 (e) To regulate on-street parking where it remains in
4 use, in coordination with off-street parking, subject to
5 traffic regulations imposed by the state; such parking
6 regulations may include, without limiting the generality of
7 this provision, the determination of (i) parking locations,
8 (ii) variable parking durations, (iii) variable parking rate
9 schedules, and (iv) enforcement policies and procedures.

10 ~~(f)~~ (f) To invest any funds held in reserve or sinking
11 funds or any funds not required for immediate disbursement
12 in property or securities in which cities may legally invest
13 funds subject to their control, but no such investment shall
14 be made in contravention of any covenant or agreement made
15 with the holders of any revenue bonds of the commission
16 theretofore issued and then outstanding.

17 ~~(g)~~ (g) To exercise all or any part or combination of
18 the powers herein granted.

19 ~~(h)~~ (h) To do and perform any and all other acts and
20 things necessary, convenient, desirable or appropriate to
21 carry out the provisions of this act."

22 Section 5. Section 11-3708, R.C.M. 1947, is amended to
23 read as follows:

24 "11-3708. Acquisition of existing parking facilities.
25 ~~---limitation.~~ No existing parking facility shall be acquired

1 by the exercise of the power of eminent domain by a
2 commission or the city except after public hearing following
3 notice of the date, time, place, and purpose of such hearing
4 published once not less than ten nor more than twenty days
5 prior to the date of such hearing, ~~and provided, however, that~~
6 ~~no property being used as a facility or facilities for the~~
7 ~~parking and/or storing of motor vehicles shall be acquired~~
8 ~~by a commission as heretofore provided by this act, unless~~
9 ~~the project to be furnished or constructed by a commission~~
10 ~~which necessitates the acquisition of such parking facility~~
11 ~~or facilities will encompass an area of land and parking~~
12 ~~area not less than three (3) times the area of land and~~
13 ~~parking area encompassed by the existing parking facility."~~

-End-