

1 HOUSE BILL NO. 451

2 INTRODUCED BY LIEN, AAGESON, CONROY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
5 89-8-102.2, R.C.M. 1947, RELATING TO FEES FOR PREPARATION OF
6 ENVIRONMENTAL IMPACT STATEMENTS BY THE DEPARTMENT OF NATURAL
7 RESOURCES AND CONSERVATION ON CERTAIN APPLICATIONS FOR
8 PERMITS OR APPROVALS UNDER THE MONTANA WATER USE ACT; TO
9 ESTABLISH A METHOD FOR DETERMINING THE MAXIMUM FEE PAYABLE;
10 AUTHORIZE THAT DEPARTMENT TO CONTRACT WITH APPLICANTS FOR
11 PAYMENT OF FEES AND THE USE THEREOF; AND, AUTHORIZE THAT
12 DEPARTMENT TO UTILIZE VARIOUS SOURCES OF ENVIRONMENTAL DATA
13 IN PREPARING ENVIRONMENTAL IMPACT STATEMENTS."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:16 Section 1. Section 89-8-102.2, R.C.M. 1947, is amended
17 to read as follows:

18 "89-8-102.2. Fees for environmental impact statements.

19 (1) Whenever the department determines that the filing of an
20 application (or a combination of applications) for a permit
21 or approval under this chapter requires the preparation of
22 an environmental impact statement as prescribed by the
23 Montana Environmental Policy Act (Title 69, chapter 65,
24 R.C.M. 1947), and the application (or combination of
25 applications) involves the use of ten thousand (10,000) or

1 more acre feet per year or fifteen (15) or more cubic feet
2 per second of water, the applicant shall pay to the
3 department the fee prescribed in ~~subsection (2) of this~~
4 section. The department shall notify the applicant in
5 writing within thirty (30) days of receipt of a correct and
6 complete application (or a combination of applications), if
7 it determines that an environmental impact statement and fee
8 is required.

9 (2) Upon notification by the department under
10 subsection (1) of this section, the applicant shall pay a
11 fee based upon the estimated cost of constructing, repairing
12 or changing the appropriation and diversion facilities
13 ~~according to the declining scale as follows: as herein~~
14 ~~provided. The maximum fee that shall be paid to the~~
15 ~~department may not exceed the fees set forth in the~~
16 ~~following declining scales:~~ two percent (2%) of the
17 estimated cost up to one million dollars (\$1,000,000); plus
18 one percent (1%) of the estimated cost over one million
19 dollars (\$1,000,000) and up to twenty million dollars
20 (\$20,000,000); plus one-half of one percent (0.5%) of the
21 estimated cost over twenty million dollars (\$20,000,000) and
22 up to one hundred million dollars (\$100,000,000); plus
23 one-quarter of one percent (0.25%) of the estimated cost
24 over one hundred million dollars (\$100,000,000) and up to
25 three hundred million dollars (\$300,000,000); plus

1 one-eighth of one percent (.125%) of the estimated cost over
 2 three hundred million dollars (\$300,000,000). The fee shall
 3 be deposited in the earmarked revenue fund to be used by the
 4 department only to comply with the Montana Environmental
 5 Policy Act in connection with the application(s). Any
 6 amounts paid by the applicant but not actually expended by
 7 the department shall be refunded to the applicant.

8 ~~(3) The department and the applicant may determine by~~
 9 ~~agreement the estimated cost of any facility for purposes of~~
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13 ~~(a) the development of information by the applicant or~~
 14 ~~a third party on behalf of the department and the applicant~~
 15 ~~concerning the environmental impact of any proposed activity~~
 16 ~~under an application;~~

17 ~~(b) the division of responsibility between the~~
 18 ~~department and an applicant for supervision over, control~~
 19 ~~of, and payment for the development of information by the~~
 20 ~~applicant or a third party on behalf of the department and~~
 21 ~~the applicant under any such contract or contracts;~~

22 ~~(c) the use or nonuse of a fee or any part thereof~~
 23 ~~paid to the department by an applicant.~~

24 ~~(4) Any payments made to the department or any third~~
 25 ~~party by an applicant under any such contract or contracts~~

1 ~~shall be credited against any fee the applicant must pay~~
 2 ~~hereunder. The department and the applicant may agree on~~
 3 ~~additional credits against the fee for environmental work~~
 4 ~~performed by the applicant at the applicant's own expense.~~

5 ~~(5) No fee as prescribed by this section may be~~
 6 ~~assessed against an applicant for a permit or approval if~~
 7 ~~the applicant has also filed an application for a~~
 8 ~~certificate of environmental compatibility and public need~~
 9 ~~pursuant to the Montana Utility Siting Act (Title 70,~~
 10 ~~chapter 8, R.C.M. 1947), and the appropriation or use of~~
 11 ~~water involved in the application(s) for permit or approval~~
 12 ~~has been or will be studied by the department pursuant to~~
 13 ~~that act.~~

14 ~~(6) This act shall apply to all applications,~~
 15 ~~pending or hereinafter filed, for which the department has~~
 16 ~~not, as of the effective date of this act, commenced writing~~
 17 ~~an environmental impact statement. This act shall not apply~~
 18 ~~to any application the fee for which would not exceed two~~
 19 ~~thousand five hundred dollars (\$2,500).~~

20 ~~(7) Failure to submit the fee as required by this~~
 21 ~~section shall void the application(s).~~

22 ~~(8) The department may, in its discretion, rely upon~~
 23 ~~the environmental studies, investigations, reports, and~~
 24 ~~assessments made by any other state agency or any person,~~
 25 ~~including any applicant, in the preparation of its~~

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1 environmental impact statement.

~~-End-~~

FISCAL NOTE

Form BD 15

In compliance with a written request received March 9, 1977, there is hereby submitted a Fiscal Note for House Bill 451 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 451 amends Section 89-8-102.2, R.C.M. 1947, relating to fees for preparation of environmental impact statements by the Department of Natural Resources on certain applications for permits or approvals under the Water Use Act.

ASSUMPTION:

House Bill 451 clarifies how the Department may utilize filing fee monies, and has no effect on revenues derived for environmental impact statements or on expenditures in preparing environmental impact statements.

FISCAL IMPACT:

None.

Richard L. Ziegenfuss

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 3-11-77

Approved by Committee
on Judiciary

HOUSE BILL NO. 451

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A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 89-8-102.2, R.C.M. 1947, RELATING TO FEES FOR PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION ON CERTAIN APPLICATIONS FOR PERMITS OR APPROVALS UNDER THE MONTANA WATER USE ACT; TO ESTABLISH A METHOD FOR DETERMINING THE MAXIMUM FEE PAYABLE; AUTHORIZE THAT DEPARTMENT TO CONTRACT WITH APPLICANTS FOR PAYMENT OF FEES AND THE USE THEREOF; AND, AUTHORIZE THAT DEPARTMENT TO UTILIZE VARIOUS SOURCES OF ENVIRONMENTAL DATA IN PREPARING ENVIRONMENTAL IMPACT STATEMENTS."

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

Section 1. Section 89-8-102.2, R.C.M. 1947, is amended to read as follows:

"89-8-102.2. Fees for environmental impact statements.

(1) Whenever the department determines that the filing of an application (or a combination of applications) for a permit or approval under this chapter requires the preparation of an environmental impact statement as prescribed by the Montana Environmental Policy Act (Title 59, chapter 65, R.C.M. 1947), and the application (or combination of applications) involves the use of ten thousand (10,000) or

more acre feet per year or fifteen (15) or more cubic feet per second of water, the applicant shall pay to the department the fee prescribed in ~~subsection (2) of this~~ section. The department shall notify the applicant in writing within thirty (30) days of receipt of a correct and complete application (or a combination of applications), if it determines that an environmental impact statement and fee is required.

(2) Upon notification by the department under subsection (1) of this section, the applicant shall pay a fee based upon the estimated cost of constructing, repairing or changing the appropriation and diversion facilities ~~according to the declining scale as follows: as herein provided. The maximum fee that shall be paid to the department may not exceed the fees set forth in the~~ following declining scale: two percent (2%) of the estimated cost up to one million dollars (\$1,000,000); plus one percent (1%) of the estimated cost over one million dollars (\$1,000,000) and up to twenty million dollars (\$20,000,000); plus one-half of one percent (0.5%) of the estimated cost over twenty million dollars (\$20,000,000) and up to one hundred million dollars (\$100,000,000); plus one-quarter of one percent (0.25%) of the estimated cost over one hundred million dollars (\$100,000,000) and up to three hundred million dollars (\$300,000,000); plus

SECOND READING

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 2 three hundred million dollars (\$300,000,000). The fee shall
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