

1 H BILL NO. 542
 2 INTRODUCED BY L. Hirsch
 3 BY REQUEST OF THE GOVERNOR'S OFFICE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
 6 70-806, R.C.M. 1947, PROVIDING FOR THE FILING OF A 1-YEAR
 7 NOTICE OF INTENTION TO FILE AN APPLICATION FOR A CERTIFICATE
 8 UNDER THE MAJOR FACILITY SITING ACT."

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

11 Section 1. Section 70-806, R.C.M. 1947, is amended to
 12 read as follows:

13 "70-806. Application for certification -- filing and
 14 contents -- filing fees -- notice of completion of facility
 15 -- further fees -- refund -- proof of service on
 16 municipalities -- amendment of application or certification
 17 -- ~~notice of filing.~~ (1) (a) An applicant for a certificate
 18 shall file with the department a verified application, in
 19 such form as the board by rule or the department by order
 20 prescribes, containing the following information:

- 21 (i) a description of the location and of the facility
- 22 to be built thereon;
- 23 (ii) a summary of any studies which have been made of
- 24 the environmental impact of the facility;
- 25 (iii) a statement explaining the need for the facility;

1 (iv) a description of any reasonable alternate location
 2 or locations for the proposed facility, a description of the
 3 comparative merits and detriments of each location
 4 submitted, and a statement of the reasons why the primary
 5 proposed location is best suited for the facility; and

6 (v) such other information as the applicant considers
 7 relevant or as the board by rule or the department by order
 8 requires. A copy or copies of the studies referred to in
 9 clause (ii) above shall be filed with the department, if
 10 ordered, and shall be available for public inspection.

11 (b) An application may consist of an application for
 12 two (2) or more facilities in combination which are
 13 physically and directly attached to each other and are
 14 operationally a single operating entity.

15 (2) (a) A filing fee shall be deposited in the
 16 earmarked revenue fund for the use of the department in
 17 administering this chapter. The applicant shall pay to the
 18 department a filing fee with the application, based upon the
 19 estimated cost of the facility according to the declining
 20 scale which follows: two percent (2%) of any estimated
 21 cost up to one million dollars (\$1,000,000); plus one
 22 percent (1%) of any estimated cost over a million dollars
 23 and up to twenty million dollars (\$20,000,000); plus
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 25 twenty million dollars (\$20,000,000); and up to one hundred

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 2 percent (0.25%) of any amount of estimated cost over one
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 5 percent (.125%) of any amount of estimated cost over three
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 7 from the filing fee shall be used by the department in
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 9 on a certificate and for carrying out its other
 10 responsibilities under this chapter with respect to the
 11 facility covered by the certificate for a period not to
 12 exceed five (5) years after the certificate is issued for
 13 facilities defined in 70-803 (3)(b) and (c) or not to exceed
 14 ten (10) years after the certificate is issued for
 15 facilities defined in 70-803 (3)(a), (d), and (e). If an
 16 application consists of a combination of two (2) or more
 17 facilities, the filing fee shall be based on the total
 18 estimated cost of the combined facilities.

19 (b) The applicant is entitled to an accounting of
 20 moneys expended and to a refund of that portion of the
 21 filing fee not expended by the department in carrying out
 22 its responsibilities under this chapter.

23 (c) The department may contract with a potential
 24 applicant under this chapter, in advance of the filing of a
 25 formal application, for the development of information or

1 provision of services required hereunder. Payments made to
 2 the department under such a contract shall be credited
 3 against the fee payable hereunder.

4 (3) An application shall be accompanied by proof of
 5 service of a copy of the application on the chief executive
 6 officer of each municipality and the head of each government
 7 agency, charged with the duty of protecting the environment
 8 or of planning land use, in the area in which any portion of
 9 the facility is to be located, both as primarily and as
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 11 accompanied by a notice specifying the date on or about
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13 (4) An application shall also be accompanied by proof
 14 that public notice thereof was given to persons, residing in
 15 the municipalities entitled to receive notice under
 16 subsection (3) of this section, by the publication of a
 17 summary of the application, and the date on or about which
 18 it is to be filed, in those newspapers as will serve
 19 substantially to inform those persons of the application.

20 (5) Inadvertent failure of service on, or notice to,
 21 any of the municipalities, government agencies or persons
 22 identified in subsections (3) and (4) of this section may be
 23 cured pursuant to orders of the department designed to
 24 afford them adequate notice to enable their effective
 25 participation in the proceeding. In addition, the department

1 may, after filing, require the applicant to serve notice of
2 the application or copies thereof or both upon such other
3 persons, and file proof thereof, as the department may deem
4 appropriate.

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6 or a certificate shall be in such form and contain such
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9 set forth in subsections (3) and (4) of this section. If an
10 amendment to an original application would result in a
11 substantial change of the original application, such an
12 amendment shall be considered as a new application and a new
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14 ~~(7) A potential applicant for a certificate may file a~~
15 ~~notice of intent to file an application for a certificate~~
16 ~~for a facility defined in 70-803(3) at least 12 months prior~~
17 ~~to the actual filing of an application. The notice of intent~~
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22 ~~complying with this subsection is entitled to a 5% reduction~~
23 ~~of the filing fee required under subsection (2)(a)."~~

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Approved by Committee
on Natural Resources

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