

1 House BILL NO. 718
2 INTRODUCED BY Andy

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING DEFINITIONS
5 AND DUTIES UNDER THE CITIZEN PARTICIPATION LAW; AMENDING
6 SECTIONS 82-4227 AND 82-4228, R.C.M. 1947."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 82-4227, R.C.M. 1947, is amended to
10 read as follows:

11 "82-4227. Definitions. As used in this act:

12 (1) "Agency" means any board, bureau, commission,
13 department, authority, or officer of the state or local
14 government authorized by law to make rules except:

15 (a) the legislature and any branch, committee, or
16 officer thereof;

17 (b) the judicial branches and any committee or officer
18 thereof;

19 (c) the governor, except that an agency is not exempt
20 because the governor has been designated as a member
21 thereof; or

22 (d) the state military establishment and agencies
23 concerned with civil defense and recovery from hostile
24 attack.

25 (2) "Rule" means any agency regulation, standard, or

1 statement of general applicability that implements,
2 interprets, or prescribes law or policy or describes the
3 organization, procedures, or practice requirements of any
4 agency. The term includes the amendment or repeal of a
5 prior rule, but does not include:

6 (a) statements concerning only the internal management
7 of an agency and not affecting private rights or procedures
8 available to the public;

9 (b) declaratory rulings as to the applicability of any
10 statutory provision or of any rule; however, the declaratory
11 rulings of any agency which is not subject to the Montana
12 Administrative Procedure Act shall be published and be
13 subject to judicial review as provided under 82-4213(2) and
14 82-4218;

15 (c) intra-agency memoranda."

16 Section 2. Section 82-4228, R.C.M. 1947, is amended to
17 read as follows:

18 "82-4228. Agency requirements. (1) Each agency shall
19 develop procedures for permitting and encouraging the public
20 to participate in agency decisions that are of significant
21 interest to the public. The procedures shall assure
22 adequate notice and assist public participation before a
23 final decision is made on the adoption of a rule or policy,
24 awarding a contract, granting or denying a permit, license
25 or change of rate that is of significant interest to the

1 public.

2 (2) An agency shall be deemed to have complied with
3 the notice provisions of this act if:

4 (a) an environmental impact statement is prepared and
5 distributed as required by the Montana environmental policy
6 act, title 69, chapter 65;

7 (b) a proceeding is held as required by the Montana
8 administrative procedure act, title 82, chapter 42;

9 (c) a public hearing, after appropriate notice is
10 given, is held pursuant to any other provision of state law
11 or a local ordinance or resolution; or

12 (d) a newspaper of general circulation within the area
13 to be affected by a decision of significant interest to the
14 public has carried a news story or advertisement concerning
15 the decision sufficiently prior to a final decision ~~on a~~ to
16 permit public comment on the matter.

17 (3) Procedures for assisting public participation
18 shall include a method of affording interested persons
19 reasonable opportunity to submit data, views or arguments,
20 orally or in written form, prior to making a final decision
21 that is of significant interest to the public.

22 (4) The provisions of this act do not apply to:

23 (a) an agency decision that must be made to deal with
24 an emergency situation affecting the public health, welfare
25 or safety;

1 (b) an agency decision that must be made to maintain
2 or protect the interests of the agency, including but not
3 limited to the filing of a lawsuit in a court of law or
4 becoming a party to an administrative proceeding; or

5 (c) a decision involving no more than a ministerial
6 act.

7 (5) ~~Each the governor shall insure that each~~ agency
8 ~~shall--adopt--guidelines~~ adopts coordinated rules for its
9 programs, which guidelines shall provide policies and
10 procedures to facilitate public participation in those
11 programs, consistent with subsection (1) of this section.
12 These guidelines shall be adopted as rules and published in
13 a manner which may be provided to a member of the public
14 upon request."

-End-

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-End-

March 22, 1977

STANDING COMMITTEE REPORT
Senate Committee on Judiciary

That House Bill No. 718 be amended as follows:

1. Amend page 2, section 1, line 11.

Following: "any"

Strike: "agency"

Insert: "board, bureau, commission, department, authority, agency,
or officer of the state"

2. Amend page 4, section 2, line 7.

Following: "each"

Strike: "agency"

Insert: "board, bureau, commission, department, authority, agency,
or officer of the state"

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REFERENCE BILL

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