

1 *House* BILL NO. *759*
 2 INTRODUCED BY *Mont Water Lab Committee Day Chairman*

3 REQUESTED BY
 4 THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT AN ACT TO AMEND SECTION
 7 89-3504, R.C.M. 1947, TO PROVIDE THAT THE LOCAL POLITICAL
 8 SUBDIVISION SHALL REIMBURSE THE DEPARTMENT OF NATURAL
 9 RESOURCES AND CONSERVATION FOR ITS COSTS IN ADMINISTERING
 10 AND ENFORCING FLOODPLAIN AND FLOODWAY MINIMUM STANDARDS
 11 WHERE THE POLITICAL SUBDIVISION HAS FAILED TO DO SO AND TO
 12 CLEARLY AUTHORIZE A POLITICAL SUBDIVISION TO ADOPT LOCAL
 13 LAND-USE REGULATIONS IN DESIGNATED FLOODPLAINS AND FLOODWAYS
 14 AFTER THE STATUTORY 6-MONTH DEADLINE."

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

17 Section 1. Section 89-3504, R.C.M. 1947, is amended to
 18 read as follows:

19 "89-3504. Program for delineation of floodplains and
 20 floodways -- land-use regulations -- payment of department
 21 expenses by political subdivision. (1) (a) The department
 22 shall initiate a comprehensive program for the delineation
 23 of designated floodplains and designated floodways for every
 24 watercourse and drainway in the state. It shall make a study
 25 relating to the acquiring of flood data and may enter into

1 arrangements with the United States geological survey, the
 2 United States army corps of engineers, or any other state or
 3 federal agency for such acquisition.

4 (b) Before the board establishes by order a designated
 5 floodplain or a designated floodway, the department shall
 6 consult with the affected political subdivisions.
 7 Consultation shall include, but not be limited to, the
 8 following:

9 (i) specifically requesting that the political
 10 subdivisions submit pertinent data concerning flood hazards,
 11 including flooding experiences, plans to avoid potential
 12 hazards, estimates of economic impacts of flooding on the
 13 community, both historical and prospective, and such other
 14 data as considered appropriate;

15 (ii) notifying local officials, including members of
 16 the county commission, city council, and planning board, of
 17 the progress of surveys, studies, and investigations and of
 18 proposed findings, along with information concerning data
 19 and methods employed in reaching such conclusions; and

20 (iii) encouraging local dissemination of information
 21 concerning surveys, studies, and investigations, so that
 22 interested persons will have an opportunity to bring
 23 relevant data to the attention of the department.

24 (2) When sufficient data have been acquired by the
 25 department, the board shall establish, by order, after a

1 public hearing, the designated floodplain within which a
 2 political subdivision may establish land-use regulation.
 3 When sufficient data have been acquired, the board shall
 4 establish, by order, after a public hearing, the designated
 5 floodway within which a political subdivision may establish
 6 land-use regulation. These designations shall be based upon
 7 reasonable hydrological certainty. When the designated
 8 floodplain or the designated floodway has been established,
 9 the department shall furnish this data to officials of the
 10 political subdivision having jurisdiction over those areas
 11 together with a map outlining the areas involved, a copy of
 12 this act, adopted rules of the board, and suggested minimum
 13 standards adopted by the board. These standards and rules
 14 shall reflect gradations in flood hazard based on criteria
 15 as outlined in section 89-3507(2). In adopting these
 16 standards, ~~and rules, and--regulations,~~ the board shall
 17 consider local input from the affected political
 18 subdivisions. The department shall record all designated
 19 floodplains or designated floodways established by the board
 20 in the office of the county clerk and recorder of each
 21 county in which those floodplains or floodways are found.
 22 The board may alter the floodplains or floodways at any
 23 later time, by order, after a public hearing if a
 24 re-evaluation reevaluation of the then available flood data
 25 warrants ~~warrant~~ it. Notice of a hearing or order of the

1 board establishing or altering the floodplains or floodways
 2 shall be given by publishing the notice once each week for
 3 ~~three--(3)~~ consecutive weeks in a legal newspaper published
 4 or of general circulation in the area involved, the last
 5 publication of which shall be not less than ~~ten--(10)~~ days
 6 prior to the date set for the hearing or the effective date
 7 of the order.

8 (3) Upon transmittal of the floodplain information to
 9 officials of a political subdivision, the political
 10 subdivision has ~~six--(6)~~ months from the date of transmittal
 11 to adopt land-use regulations which meet or exceed the
 12 minimum standards of the board. If within the ~~six--(6)~~-month
 13 6-month period the political subdivision has failed to adopt
 14 the land-use regulations, the department shall enforce the
 15 minimum standards within the designated floodplain or the
 16 designated floodway as established by the board under
 17 subsection (2) of this section, and no artificial
 18 obstruction or nonconforming use ~~shall~~ may be established by
 19 any person within the designated floodplain or the
 20 designated floodway, unless specifically authorized by the
 21 board.

22 ~~(4) The department shall maintain a record of all its~~
 23 ~~administrative costs to administer and enforce the minimum~~
 24 ~~standards within the designated floodplain or floodway, and~~
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1 shall reimburse the department for such costs after billing
2 by the department. A political subdivision which has failed
3 to adopt land-use regulations which meet or exceed the
4 minimum standards of the board within the 6-month period may
5 subsequently adopt such regulations and, if approved by the
6 board, they shall be effective within the designated
7 floodplain or floodway and administered and enforced by the
8 political subdivision.

9 (5) When necessary for compliance with federal flood
10 insurance requirements, the board may shorten the ~~six- (6)~~
11 month ~~6-month~~ period upon notification to the political
12 subdivision and publication of a notice thereof in a
13 newspaper of general circulation in the affected area once a
14 week for ~~three- (3)~~ consecutive weeks."

-End-

STATE OF MONTANA

REQUEST NO. 608-77

FISCAL NOTE

Form BD-15

In compliance with a written request received March 8, 19 77, there is hereby submitted a Fiscal Note for House Bill 759 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 758 provides that local political subdivisions shall reimburse the Department of Natural Resources and Conservation for its costs in administering and enforcing floodplain and floodway minimum standards where the political subdivision has failed to do so.

FISCAL IMPACT - STATE:

None

FISCAL IMPACT - LOCAL:

Ten (10) counties have designated floodplains within their jurisdiction. Currently, eight (8) of the ten (10) counties are financing the administration and enforcement of floodplain regulations. There will be additional costs to those counties that do not enforce these regulations; however, it is difficult to estimate those counties that will be charged for enforcement and how much the charge will be.

Richard L. Dunnington

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 3-11-77

Approved by Committee
on Judiciary

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HB 759

1 public hearing, the designated floodplain within which a
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 24 ~~re-evaluation~~ reevaluation of the then available flood data
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-End-

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3 REQUESTED BY
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11 ~~month 6-month~~ period upon notification to the political
12 subdivision and publication of a notice thereof in a
13 newspaper of general circulation in the affected area once a
14 week for ~~three-(3)~~ consecutive weeks."

-End-

March 11, 1977

STANDING COMMITTEE REPORT
Senate Committee on Local Government

That House Bill No. 759, third reading, be amended as follows:

1. Amend title, line 6.

Following: "ENTITLED: "AN ACT"

Strike: "AN ACT"

2. Amend title, lines 7 through 11.

Following: "To"

Strike: lines 7 through 11 in their entirety.

3. Amend page 1, section 1, lines 20 through 21.

Following: "regulations"

Strike: "--payment of department expenses by political subdivision"

4. Amend page 4, section 1, lines 22 through line 2 on page 5.

Following: "(4)"

Strike: lines 22 through "department." on line 2 on page 5

HOUSE BILL NO. 759

INTRODUCED BY MONT. WATER SUB. COMMITTEE, DAY, CHAIRMAN

REQUESTED BY

THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT AN ACT TO AMEND SECTION 89-3504, R.C.M. 1947, TO PROVIDE THAT THE LEGAL-POLITICAL SUBDIVISION--SHALL--REIMBURSE--THE--DEPARTMENT--OF--NATURAL RESOURCES--AND--CONSERVATION--FOR--ITS--COSTS--IN--ADMINISTERING AND--ENFORCING--FLOODPLAIN--AND--FLOODWAY--MINIMUM--STANDARDS WHERE--THE--POLITICAL--SUBDIVISION--HAS--FAILED--TO--DO--SO--AND--TO CLEARLY AUTHORIZE A POLITICAL SUBDIVISION TO ADOPT LOCAL LAND-USE REGULATIONS IN DESIGNATED FLOODPLAINS AND FLOODWAYS AFTER THE STATUTORY 6-MONTH DEADLINE."

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