

1 *Senate* BILL NO. *247*
 2 INTRODUCED BY *Walter Dumble Bogle*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE OPTION OF
 5 AGENCIES TO CHARGE FEES FOR THE PREPARATION OF ENVIRONMENTAL
 6 IMPACT STATEMENTS; DELETING THE REQUIRED FILING FEE FOR AN
 7 APPLICATION UNDER THE MAJOR FACILITY SITING ACT; AMENDING
 8 SECTIONS 70-806, 70-818, AND 70-824, R.C.M. 1947; AND
 9 REPEALING SECTION 69-6518, R.C.M. 1947."

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

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

14 "70-806. Application for certification -- filing and
 15 contents ---filing-fees -- notice of completion of facility
 16 ---further-fees---refund -- proof of service on
 17 municipalities -- amendment of application or certification.

18 (1) (a) An applicant for a certificate shall file with the
 19 department a verified application, in such form as the board
 20 by rule or the department by order prescribes, containing
 21 the following information:

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

- 1 (iii) a statement explaining the need for the facility;
- 2 (iv) a description of any reasonable alternate location
- 3 or locations for the proposed facility, a description of the
- 4 comparative merits and detriments of each location
- 5 submitted, and a statement of the reasons why the primary
- 6 proposed location is best suited for the facility; and
- 7 (v) such other information as the applicant considers
- 8 relevant or as the board by rule or the department by order
- 9 requires. A copy or copies of the studies referred to in
- 10 clause (ii) above shall be filed with the department, if
- 11 ordered, and shall be available for public inspection.

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

16 ~~{2}~~{a} ~~A filing fee shall be deposited in the~~
 17 ~~earmarked revenue fund for the use of the department in~~
 18 ~~administering this chapter. The applicant shall pay to the~~
 19 ~~department a filing fee with the application, based upon the~~
 20 ~~estimated cost of the facility according to the declining~~
 21 ~~scale which follows: two percent (2%) of any estimated~~
 22 ~~cost up to one million dollars (\$1,000,000); plus one~~
 23 ~~percent (1%) of any estimated cost over a million dollars~~
 24 ~~and up to twenty million dollars (\$20,000,000); plus~~
 25 ~~one-half of one percent (0.5%) of any estimated cost over~~

~~1 twenty-million dollars (\$20,000,000) and up to one hundred
 2 million dollars (\$100,000,000) plus one quarter of one
 3 percent (0.25%) of any amount of estimated cost over one
 4 hundred million (\$100,000,000) and up to three hundred
 5 million dollars (\$300,000,000) plus one eighth of one
 6 percent (1.25%) of any amount of estimated cost over three
 7 hundred million dollars (\$300,000,000). The revenues derived
 8 from the filing fee shall be used by the department in
 9 compiling the information required for rendering a decision
 10 on a certificate and for carrying out its other
 11 responsibilities under this chapter with respect to the
 12 facility covered by the certificate for a period not to
 13 exceed five (5) years after the certificate is issued for
 14 facilities defined in 70-803 (3) (b) and (c) or not to
 15 exceed ten (10) years after the certificate is issued for
 16 facilities defined in 70-803 (3) (d) and (e). If an
 17 application consists of a combination of two (2) or more
 18 facilities, the filing fee shall be based on the total
 19 estimated cost of the combined facilities.~~

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

~~24 (c) The department may contract with a potential
 25 applicant under this chapter, in advance of the filing of a~~

~~1 formal application, for the development of information or
 2 provision of services required hereunder. Payments made to
 3 the department under such a contract shall be credited
 4 against the fee payable hereunder.~~

~~5 (3)(2) An application shall be accompanied by proof of
 6 service of a copy of the application on the chief executive
 7 officer of each municipality and the head of each government
 8 agency, charged with the duty of protecting the environment
 9 or of planning land use, in the area in which any portion of
 10 the facility is to be located, both as primarily and as
 11 alternatively proposed. The copy of the application shall be
 12 accompanied by a notice specifying the date on or about
 13 which the application is to be filed.~~

~~14 (4)(3) An application shall also be accompanied by
 15 proof that public notice thereof was given to persons,
 16 residing in the municipalities entitled to receive notice
 17 under subsection (3)(2) of this section, by the publication
 18 of a summary of the application, and the date on or about
 19 which it is to be filed, in those newspapers as will serve
 20 substantially to inform those persons of the application.~~

~~21 (5)(4) Inadvertent failure of service on, or notice
 22 to, any of the municipalities, government agencies or
 23 persons identified in subsections (3)(2) and (4)(3) of this
 24 section may be cured pursuant to orders of the department
 25 designed to afford them adequate notice to enable their~~

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

6 ~~(6)(5)~~ An application for an amendment of an
 7 application or a certificate shall be in such form and
 8 contain such information as the board by rule or the
 9 department by order prescribes. Notice of such an
 10 application shall be given as set forth in subsections
 11 ~~(3)(2)~~ and ~~(4)(3)~~ of this section. If an amendment to an
 12 original application would result in a substantial change of
 13 the original application, such an amendment shall be
 14 considered as a new application and a new filing fee shall
 15 be required."

16 Section 2. Section 70-818, R.C.M. 1947, is amended to
 17 read as follows:

18 "70-818. Revocation or suspension of certificate --
 19 voiding of application. (1) A certificate may be revoked or
 20 suspended by the board:

21 (a) for any material false statement in the
 22 application or in accompanying statements or studies
 23 required of the applicant, if a true statement would have
 24 warranted the board's refusal to grant a certificate; or

25 (b) for failure to maintain safety standards or to

1 comply with the terms or conditions of the certificate; or
 2 (c) for violation of any provision of this chapter,
 3 the rules issued thereunder, or orders of the board or
 4 department.

5 (2) An application may be voided by the department:

6 (a) for any material and knowingly false statement in
 7 the application or in accompanying statements or studies
 8 required of the applicant; or

9 (b) for failure to file an application in
 10 substantially the form and content required by this chapter
 11 and the rules adopted thereunder; or.

12 ~~(c) for failure to deposit the filing fee with the~~
 13 ~~application as required by section 70-886"~~

14 Section 3. Section 70-824, R.C.M. 1947, is amended to
 15 read as follows:

16 "70-824. Earmarked revenue fund. All fees, taxes,
 17 fines, and penalties collected under this chapter shall be
 18 deposited in the earmarked revenue fund for use by the
 19 department in carrying out its functions and
 20 responsibilities under this chapter."

21 Section 4. Repealer. Section 69-6518, R.C.M. 1947, is
 22 repealed.

-End-

STATE OF MONTANA

REQUEST NO. 253-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 1, , 1977 , there is hereby submitted a Fiscal Note for Senate Bill 247 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:

Senate Bill 247 is an act to delete the option of agencies to charge fees for the preparation of environmental impact statements and deleting the required filing fee for an application under the Major Facility Siting Act.

ASSUMPTIONS:

1. The cost of doing a study on a proposed project will be assumed by the General Fund.
2. Future estimates of the fiscal impact of Senate Bill 247 can only be based on the historical figures of this activity which indicate that \$1.9 million in fees will be collected in the 1977 biennium for preparation of environmental impact statements.
3. Senate Bill 247 will impact on four state agencies — Department of Natural Resources, Department of Fish and Game, Department of State Lands and the Department of Health and Environmental Sciences.
4. Costs of preparing statements will increase 8% in the 1979 biennium over the current biennium.

FISCAL IMPACT:

	<u>1979 Biennium</u>
Estimated fee collection under proposed law	\$ 0
Estimated fee collection under current law	<u>2.05M</u>
Decrease in fee collection due to proposed law	<u>\$2.05M</u>

Richard L. Dwyer
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-2-77

Approved by Committee
on Natural Resources

1 SENATE BILL NO. 247

2 INTRODUCED BY DOVER, DUNKLE, BOYLAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ~~DELETE THE OPTION OF~~
5 ~~AGENCIES TO CHARGE FEES FOR THE PREPARATION OF ENVIRONMENTAL~~
6 ~~IMPACT STATEMENTS, DELETING THE REQUIRED FILING FEE FOR AN~~
7 ~~APPLICATION UNDER THE MAJOR FACILITY SITING ACT, AMENDING~~
8 ~~SECTIONS 70-806, 70-810, AND 70-824, R.C.M. 1947, AND~~
9 ~~REPEALING SECTION 69-6510, R.C.M. 1947. AMEND SECTION~~
10 ~~70-806, R.C.M. 1947, TO PROVIDE THAT FILING FEES COLLECTED~~
11 ~~UNDER THE MONTANA MAJOR FACILITY SITING ACT SHALL BE USED~~
12 ~~ONLY TO COLLECT INFORMATION REQUIRED TO RENDER A DECISION ON~~
13 ~~A CERTIFICATE."~~

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

16 Refer to Introduced Bill

17 (Strike everything after the enacting clause and insert:)

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

20 "70-806. Application for certification -- filing and
21 contents -- filing fees -- notice of completion of facility
22 -- further fees -- refund -- proof of service on
23 municipalities -- amendment of application or certification.

24 (1) (a) An applicant for a certificate shall file with the
25 department a verified application, in such form as the board

1 by rule or the department by order prescribes, containing
2 the following information:

3 (i) a description of the location and of the facility
4 to be built thereon;

5 (ii) a summary of any studies which have been made of
6 the environmental impact of the facility;

7 (iii) a statement explaining the need for the facility;

8 (iv) a description of any reasonable alternate location
9 or locations for the proposed facility, a description of the
10 comparative merits and detriments of each location
11 submitted, and a statement of the reasons why the primary
12 proposed location is best suited for the facility; and

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

18 (b) An application may consist of an application for
19 two--(2) or more facilities in combination which are
20 physically and directly attached to each other and are
21 operationally a single operating entity.

22 (2) (a) The applicant shall pay to the department a
23 filing fee with the application, which shall be deposited in
24 the earmarked revenue fund for the use of the department in
25 administering this chapter. This fee shall be based upon the

1 estimated cost of the facility according to the declining
 2 scale which follows: ~~two-percent-(2%)~~ of any estimated cost
 3 up to ~~one-million-dollars--(\$1,000,000)~~; plus one percent
 4 (1%) of any estimated cost over a million dollars and up to
 5 twenty million dollars (\$20,000,000); plus one-half of one
 6 percent (0.5%) of any estimated cost over twenty million
 7 dollars (\$20,000,000); and up to one hundred million dollars
 8 (\$100,000,000); plus one-quarter of one percent (0.25%) of
 9 any amount of estimated cost over one hundred million
 10 (\$100,000,000) and up to three hundred million dollars
 11 (\$300,000,000); plus one-eighth of one percent (.125%) of
 12 any amount of estimated cost over three hundred million
 13 dollars (\$300,000,000). The revenues derived from the filing
 14 fee shall be used by the department in compiling the
 15 information required for rendering a decision on a
 16 certificate ~~and-for-carrying-out-its-other-responsibilities~~
 17 ~~under-this-chapter-with-respect-to-the-facility-covered-by~~
 18 ~~the--certificate--for--a-period-not-to-exceed-five-(5)-years~~
 19 ~~after-the-certificate-is-issued-for--facilities--defined--in~~
 20 ~~70-803-(3)-(b)-and-(c)-or-not-to-exceed-ten-(10)-years-after~~
 21 ~~the--certificate-is-issued-for-facilities-defined-in-70-803~~
 22 ~~(3)(a)-(d)-and-(e).~~ If an application consists of a
 23 combination of ~~two-(2)~~ or more facilities, the filing fee
 24 shall be based on the total estimated cost of the combined
 25 facilities.

1 (b) The applicant is entitled to an accounting of
 2 moneys expended and to a refund of that portion of the
 3 filing fee not expended by the department in carrying out
 4 its responsibilities to compile information under this
 5 chapter.

6 (c) The department may contract with a potential
 7 applicant under this chapter, in advance of the filing of a
 8 formal application, for the development of information or
 9 provision of services required hereunder. Payments made to
 10 the department under such a contract shall be credited
 11 against the fee payable hereunder.

12 (3) An application shall be accompanied by proof of
 13 service of a copy of the application on the chief executive
 14 officer of each municipality and the head of each government
 15 agency, charged with the duty of protecting the environment
 16 or of planning land use, in the area in which any portion of
 17 the facility is to be located, both as primarily and as
 18 alternatively proposed. The copy of the application shall be
 19 accompanied by a notice specifying the date on or about
 20 which the application is to be filed.

21 (4) An application shall also be accompanied by proof
 22 that public notice thereof was given to persons, residing in
 23 the municipalities entitled to receive notice under
 24 subsection (3) of this section, by the publication of a
 25 summary of the application, and the date on or about which

1 it is to be filed, in those newspapers as will serve
2 substantially to inform those persons of the application.

3 (5) Inadvertent failure of service on, or notice to,
4 any of the municipalities, government agencies or persons
5 identified in subsections (3) and (4) of this section may be
6 cured pursuant to orders of the department designed to
7 afford them adequate notice to enable their effective
8 participation in the proceeding. In addition, the department
9 may, after filing, require the applicant to serve notice of
10 the application or copies thereof or both upon such other
11 persons, and file proof thereof, as the department may deem
12 appropriate.

13 (6) An application for an amendment of an application
14 or a certificate shall be in such form and contain such
15 information as the board by rule or the department by order
16 prescribes. Notice of such an application shall be given as
17 set forth in subsections (3) and (4) of this section. If an
18 amendment to an original application would result in a
19 substantial change of the original application, such an
20 amendment shall be considered as a new application and a new
21 filing fee shall be required."

-End-

Approved by Committee
on Finance & Claims

1 SENATE BILL NO. 247

2 INTRODUCED BY DOVER, DUNKLE, BOYLAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ~~DELETE THE OPTION OF~~
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11 UNDER THE MONTANA MAJOR FACILITY SITING ACT SHALL BE USED
12 ONLY TO COLLECT INFORMATION REQUIRED TO RENDER A DECISION ON
13 A CERTIFICATE AND TO CARRY OUT THE RESPONSIBILITIES OF THE
14 DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION UNTIL THE
15 CONCLUSION OF THE HEARING BY THE BOARD OF NATURAL
16 RESOURCES."

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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20 (Strike everything after the enacting clause and insert:)

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SECOND READING

SECOND PRINTING

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 5 scale which follows: two percent ~~{2%}~~ of any estimated cost
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 9 percent (0.5%) of any estimated cost over twenty million
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 21 ~~the certificate for a period not to exceed five (5) years~~
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 23 ~~70-803 (3) (b) and (c) or not to exceed ten (10) years after~~
 24 ~~the certificate is issued for facilities defined in 70-803~~
 25 ~~(3) (a), (d), and (e) AND FOR CARRYING OUT ITS OTHER~~

1 RESPONSIBILITIES UNDER THIS CHAPTER WITH RESPECT TO THE
 2 FACILITY COVERED BY THE CERTIFICATE UNTIL THE CONCLUSION OF
 3 THE HEARING BY THE BOARD OF NATURAL RESOURCES. If an
 4 application consists of a combination of two ~~{2}~~ or more
 5 facilities, the filing fee shall be based on the total
 6 estimated cost of the combined facilities.

7 (b) The applicant is entitled to an accounting of
 8 moneys expended and to a refund of that portion of the
 9 filing fee not expended by the department in carrying out
 10 its responsibilities to compile information under this
 11 chapter.

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7 it is to be filed, in those newspapers as will serve
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10 any of the municipalities, government agencies or persons
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12 cured pursuant to orders of the department designed to
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16 the application or copies thereof or both upon such other
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20 or a certificate shall be in such form and contain such
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24 amendment to an original application would result in a
25 substantial change of the original application, such an

1 amendment shall be considered as a new application and a new
2 filing fee shall be required.*

-End-