

SENATE BILL 44

IN THE SENATE

January 3, 1979	Introduced and referred to Committee on Natural Resources.
February 17, 1979	Committee recommend bill, as amended.
February 20, 1979	Printed and placed on members' desks.
February 21, 1979	Second reading, do pass.
February 22, 1979	Considered correctly engrossed.
February 23, 1979	Third reading, passed.
IN THE HOUSE	
February 27, 1979	Introduced and referred to Committee on Local Government.
March 19, 1979	Committee recommend bill, as amended, not concurred.
	Objection.
March 20, 1979	Second reading, not concurred.
IN THE SENATE	
March 21, 1979	Returned from House, not concurred, as amended.
March 22, 1979	On motion, request of House granted for return of Senate Bill 44 for further consideration.
	Motion adopted.
	Transmitted to House
IN THE HOUSE	
March 22, 1979	On motion of March 21, 1979 request return of Senate Bill 44 to reconsider previous action.

March 23, 1979	On motion, consideration passed until the 69th Legislative Day.
March 26, 1979	Second reading, pass consideration.
March 28, 1979	On motion, taken from second reading and referred to Committee on Local Government.
April 20, 1979	Died in Committee.

1 SENATE BILL NO. 44

2 INTRODUCED BY DOVER

3 BY REQUEST OF THE INTERIM SUBCOMMITTEE ON SUBDIVISION LAWS

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO MODIFY THE
6 REQUIREMENTS FOR DEDICATION OF PARKLAND FOR SUBDIVISIONS;
7 ALLOWING A PORTION OF PARK MONEY TO BE USED FOR MAINTENANCE
8 OF EXISTING PARKS; AND AMENDING SECTION 76-3-606, MCA."

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

11 Section 1. Section 76-3-606, MCA, is amended to read:
12 "76-3-606. Dedication of land to public -- cash
13 donations. (1) A ~~plot of a residential subdivision shall~~
14 show that one-ninth of the combined area of lots 5 acres or
15 less in size and one-twelfth of the combined area of lots
16 greater than 5 acres in size, exclusive of all other
17 dedications, is forever dedicated to the public for parks or
18 playgrounds. No dedication may be required for the combined
19 area of those lots in the subdivision which are larger than
20 10 acres exclusive of all other dedications. Within each
21 residential subdivision 1,000 square feet of land per
22 dwelling unit shall be dedicated to the public for parks and
23 playgrounds. The governing body in consultation with the
24 planning board having jurisdiction and in conformance to any
25 park plan adopted by the governing body, may determine

1 suitable locations for such parks and playgrounds.

2 (2) Where the dedication of land for parks or
3 playgrounds is undesirable because of size, topography,
4 shape, location, or other circumstances, the governing body
5 may, for good cause shown, make an order to be endorsed and
6 certified on the plat accepting a cash donation in lieu of
7 ~~all or part of the dedication of land and equal to the fair~~
8 market value of the amount of land that would have been
9 dedicated. For the purpose of this section, the fair market
10 value is the value of the unsubdivided, unimproved land.
11 Such ~~the~~ cash donation shall be paid into the park fund to
12 be used for the purchase of additional lands or for the
13 initial development of parks and playgrounds, and up to
14 ~~one-third of the cash received in lieu of land dedicated~~
15 ~~under this section may be used for routine maintenance of~~
16 ~~existing parks or playgrounds. Park funds shall be expended~~
17 ~~according to a park plan or policy statement, which must be~~
18 ~~adopted by the governing body before expenditure of park~~
19 ~~funds.~~"

-End-

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INTRODUCED BILL

1 SENATE BILL NO. 44
2 INTRODUCED BY DOVER
3 BY REQUEST OF THE INTERIM SUBCOMMITTEE ON SUBDIVISION LAWS
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO MODIFY THE
6 REQUIREMENTS FOR DEDICATION OF PARKLAND FOR SUBDIVISIONS;
7 ALLOWING A PORTION OF PARK MONEY TO BE USED FOR MAINTENANCE
8 OF EXISTING PARKS; AND AMENDING SECTION SECTIONS 76-16-2324
9 AND 76-3-606, MCA; AND REPEALING SECTION 76-3-607, MCA."

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

12 Refer to Introduced Bill

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

14 NEW SECTION Section 1. Local regulation of

15 subdivision park and recreation assessment -- land

16 dedication in lieu of assessment. (1) Before October 1,

17 1979, each governing body shall specify in its local

18 subdivision regulations an amount of cash to be paid by

19 subdividers of residential subdivisions for which

20 application for local approval is made after July 1, 1979,

21 not to exceed \$250, to be assessed per lot for park and

22 recreation purposes. The money must be placed in a park fund

23 to be used exclusively for the purchase of additional lands

25 (2) When a subdivision contains 50 or more lots, the

1 subdivider and the governing body may enter into an
2 agreement to defer, for a period of up to 2 years, payment
3 of not more than 75% of the park and recreation assessment
4 if the subdivider provides security for the deferred
5 portion. The agreement must specify the form and conditions
6 of the security and the period of deferment and may specify
7 terms for remittance of the deferred portion of the
8 assessment through a series of partial payments.

18 (4) In lieu of all or part of the cash assessment,
19 land may be deeded to a property owners' association for use
20 as parks or recreation areas upon written agreement between
21 the subdivider and the governing body. The amount of land
22 deeded for parks and recreation areas must be equivalent in
23 value to the cash assessment based on the fair market value
24 of the subdivided land. The agreement between the subdivider
25 and the governing body must include a provision requiring

1 written approval of the governing body before the property
 2 owners' association may convert the deeded land from its use
 3 as parks or recreation areas or convey title to the land.

4 (5) Whenever land within a proposed subdivision is the
 5 subject of proceedings under the laws of eminent domain
 6 contained in Title 70, chapter 30, the land must be
 7 separated from the proposed plat and those proceedings may
 8 not delay action on the remainder of the plat beyond the
 9 time limits specified in this chapter.

10 Section 2. Section 7-16-2324, MCA, is amended to read:

11 "7-16-2324. Sale, lease, or exchange of dedicated park
 12 lands. (1) For the purposes of this section and part 25 of
 13 chapter 8, lands dedicated to the public use for park or
 14 playground purposes under 76-3-606-and-76-3-607-or-a-statter
 15 statute or pursuant to any instrument not specifically
 16 conveying land to be a governmental unit other than a county
 17 are deemed to be county lands.

18 (2) A county may not sell, lease, or exchange lands
 19 dedicated for park or playground purposes except as provided
 20 under this section and part 25 of chapter 8.

21 (3) Prior to selling, leasing, or exchanging any
 22 county land dedicated to public use for park or playground
 23 purposes, a county shall:

24 (a) compile an inventory of all public parks and
 25 playgrounds within the county;

1 (b) prepare a comprehensive plan for the provision of
 2 outdoor recreation and open space within the county;

3 (c) determine that the proposed sale, lease, or
 4 exchange furthers or is consistent with the county's outdoor
 5 recreation and open space comprehensive plan;

6 (d) publish notice of intention to sell, lease, or
 7 dispose of such lands, giving the people of the county
 8 opportunity to be heard regarding such action;

9 (e) if the land is within an incorporated city or
 10 town, secure the approval of the governing body thereof for
 11 the action; and

12 (f) comply with any other applicable requirements
 13 under part 25 of chapter 8.

14 (4) Any revenue realized by a county from the sale,
 15 exchange, or disposal of lands dedicated to public use for
 16 park or playground purposes shall be paid into the park fund
 17 and used in the manner prescribed in 76-3-606--and--76-3-607
 18 for-cash-received-in-ties-of-dedication [section 1]."

19 Section 3. Section 76-3-606, MCA, is amended to read:

20 "76-3-606. Dedication of land to public ----cash
 21 donations.--ftt--A--plat--of-a-residential-subdivision-shall
 22 show-that-one-ninth-of-the-combined-area-of-tots-5-acres--or
 23 less--in--size--and-one-twelfth-of-the-combined-area-of-tots
 24 greater-than--5--acres--in--size--exclusive--of--all--other
 25 dedications--is--forever-dedicated-to-the-public-for-parks-or

1 playgrounds--No dedication may be required for the combined
 2 area of these lots in the subdivision which are larger than
 3 10--acres--exclusive of all other dedications--The governing
 4 body--in--consultation--with--the--planning--board--having
 5 jurisdiction--may--determine--suitable--locations--for--such
 6 parks and playgrounds--

7 if--Where--the--dedication--of--land--for--parks--or
 8 playgrounds--is--undesirable--because--of--size--topography--
 9 shape--location--or--other--circumstances--the--governing--body
 10 may--for--good--cause--shown--make--an--order--to--be--endorsed--and
 11 certified--on--the--plat--accepting--a--cash--donation--in--lieu--of
 12 the--dedication--of--land--and--equal--to--the--fair--market--value--of
 13 the--amount--of--land--that--would--have--been--dedicated--For--the
 14 purpose--of--this--section--the--fair--market--value--is--the--value
 15 of--the--unsubdivided--improved--land--Such--cash--donation
 16 shall--be--paid--into--the--park--fund--to--be--used--for--the--purchase
 17 of--additional--lands--or--for--the--initial--development--of--parks
 18 and--playgrounds--If a dedication of land is contemplated by
 19 a subdivider to satisfy the requirements of (section 1), the
 20 governing body shall review the plat of the proposed
 21 residential subdivision to determine that the plat
 22 accurately reflects the terms of the agreement between the
 23 subdivider and the governing body made pursuant to (section
 24 1)."

25 SECTION 4. CODIFICATION. SECTION 1 IS INTENDED TO BE

1 CODIFIED AN AN INTEGRAL PART OF TITLE 76, CHAPTER 3, PART 5,
 2 AND THE PROVISIONS OF TITLE 76, CHAPTER 3, APPLY TO THE
 3 PROVISIONS CONTAINED IN SECTION 1.
 4 SECTION 5. REPEALER. SECTION 76-3-607, MCA, IS
 5 REPEALED.

-End-

HOUSE OF REPRESENTATIVES
March 15, 1979

Committee on LOCAL GOVERNMENT Amendments to Senate Bill 44,
third reading copy, be amended as follows:

1. Title, line 8

Strike: "76-16-2324"

Insert: "7-16-2324"

2. Page 1, line 21.

Strike: "not to exceed \$250,"

AND AS AMENDED BE
NOT CONCURRED IN

OBJECTION TO ADVERSE COMMITTEE REPORT