

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.

SENATE BILL NO. 44

INTRODUCED BY DOVER

BY REQUEST OF THE INTERIM SUBCOMMITTEE ON SUBDIVISION LAWS

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

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

Section 1. Section 76-3-606, MCA, is amended to read:

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

suitable locations for such parks and playgrounds.

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

-End-

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INTRODUCED BILL

SENATE BILL NO. 44
INTRODUCED BY DOVER

BY REQUEST OF THE INTERIM SUBCOMMITTEE ON SUBDIVISION LAWS

A BILL FOR AN ACT ENTITLED: "AN ACT TO MODIFY THE
REQUIREMENTS FOR DEDICATION OF PARKLAND FOR SUBDIVISIONS;
~~ALLOWING A PORTION OF PARK MONEY TO BE USED FOR MAINTENANCE~~
~~OF EXISTING PARKS; AND AMENDING SECTION SECTIONS 76-16-2324~~
~~AND 76-3-606, MCA; AND REPEALING SECTION 76-3-607, MCA."~~

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

Refer to Introduced Bill

(Strike everything after the enacting clause and insert:)

NEW SECTION. Section 1. Local regulation of
subdivision park and recreation assessment -- land
dedication in lieu of assessment. (1) Before October 1,
1979, each governing body shall specify in its local
subdivision regulations an amount of cash to be paid by
subdividers of residential subdivisions for which
application for local approval is made after July 1, 1979,
not to exceed \$250, to be assessed per lot for park and
recreation purposes. The money must be placed in a park fund
to be used exclusively for the purchase of additional lands
or for development of parks and recreation areas.

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

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

(3) Upon written agreement between the subdivider and
the governing body, land may be dedicated to the public for
parks and recreation areas in lieu of all or part of the
cash assessment if the dedication would enhance existing
parks or recreation areas or comply with an adopted park
plan or policy statement. The amount of land dedicated for
parks and recreation areas must be equivalent in value to
the cash assessment based on the fair market value of the
subdivided land.

(4) In lieu of all or part of the cash assessment,
land may be deeded to a property owners' association for use
as parks or recreation areas upon written agreement between
the subdivider and the governing body. The amount of land
deeded for parks and recreation areas must be equivalent in
value to the cash assessment based on the fair market value
of the subdivided land. The agreement between the subdivider
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 similar
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 lieu 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. --(1) A plat of a residential subdivision shall
22 show that one-ninth of the combined area of lots 5 acres or
23 less in size and one-twelfth of the combined area of lots
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 (2) 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, unimproved 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