

SENATE BILL 510

IN THE SENATE

February 14, 1979	Introduced and referred to Committee on Taxation.
February 15, 1979	Fiscal note requested.
February 21, 1979	Fiscal note returned.
March 22, 1979	On motion, taken from Committee on Taxation, as amended and referred to second reading. Motion failed.
April 20, 1979	Died in Committee.

1 *Smith* BILL NO. *510*
2 INTRODUCED BY *Conner*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT
5 LANDOWNERS MAY PETITION THE BOARD OF COUNTY COMMISSIONERS OF
6 ANY COUNTY TO CREATE AGRICULTURAL DISTRICTS THAT WILL HELP
7 PRESERVE AGRICULTURAL LANDS AND GIVE A PROPERTY TAX BREAK
8 FOR AGRICULTURAL LANDS WITHIN SUCH DISTRICTS; AMENDING
9 SECTION 15-6-107, MCA."

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

12 NEW SECTION. Section 1. Purpose. It is the purpose of
13 this law to conserve, protect, and encourage the development
14 and improvement of agricultural lands for the production of
15 food and other agricultural products. It is also the intent
16 of this law to provide a smooth, voluntary process for
17 farmers and ranchers to ensure the sound maintenance of
18 their agricultural communities, to provide taxation relief
19 for agricultural landowners, and to protect productive
20 agricultural lands from land speculation and development
21 pressures. Agricultural lands in many portions of the state
22 are under pressure from expanding urban areas or residential
23 development in agricultural areas. This urban pressure takes
24 the form of scattered development in wide belts around urban
25 areas, brings conflicting land uses into juxtaposition, and

1 stimulates land speculation. When this scattered development
2 extends into good farm areas, ordinances inhibiting farming
3 tend to follow and hopes for speculative gains discourage
4 investments in farm improvements. Many of the agricultural
5 lands in Montana are in jeopardy of being lost for any
6 agricultural purposes. Certain of these lands constitute
7 unique and irreplaceable land resources of statewide
8 importance. It is the purpose of [this act] to provide a
9 means by which agricultural land may be protected and
10 enhanced as an important segment of the state's economy and
11 as an economic and environmental resource of major
12 importance.

13 NEW SECTION. Section 2. Definitions. As used in [this
14 act], the following definitions apply:

15 (1) "Agricultural land" means land meeting the
16 qualifications imposed in 15-7-202(1) for eligibility for
17 valuation as agricultural property.

18 (2) "Commissioners" means the board of county
19 commissioners of any county.

20 (3) "Committee" means the county agricultural
21 districting advisory committee appointed by the board of
22 county commissioners of any county as provided in [this
23 act].

24 NEW SECTION. Section 3. Agricultural districts
25 authorized. The commissioners shall have the power to create

1 one or more agricultural districts within the county in the
2 manner provided by [this act].

3 NEW SECTION. Section 4. Petition to create
4 agricultural district. When a petition signed by not less
5 than 65% of the landowners within the boundaries of a
6 proposed agricultural district is presented to the
7 commissioners asking for the creation of an agricultural
8 district, the commissioners shall within 15 days appoint a
9 committee that will study the proposed agricultural
10 district.

11 NEW SECTION. Section 5. Details relating to petition
12 to create district. (1) The petition provided for in
13 [section 4] shall set forth the boundaries of the proposed
14 district in a map and request that the property within the
15 boundaries be organized into an agricultural district.

16 (2) Sufficient funds to defray the cost of mailing,
17 publication, and posting of notice shall accompany the
18 petition.

19 NEW SECTION. Section 6. Minimum criteria for the
20 formation of an agricultural district. To qualify as an
21 agricultural district, a proposed district must:

- 22 (1) contain at least 500 acres; and
23 (2) have at least 80% of the land in the proposed
24 district in agricultural use.

25 NEW SECTION. Section 7. Formation of the county

1 agricultural districting advisory committee -- compensation.

2 (1) The committee shall consist of:

3 (a) two landowners from the proposed district, unless
4 there is only one landowner in the proposed district, in
5 which case the county commissioners shall appoint one
6 representative from the area adjacent to the agricultural
7 district who is a landowner in the area;

8 (b) one representative from the local conservation
9 district; and

10 (c) two members of the county planning board unless
11 there is no county planning board, in which case the county
12 commissioners shall appoint two representatives who are
13 landowners in the area near the agricultural district.

14 (2) All such board members shall serve without pay.
15 The appointed members shall receive per diem as allowed by
16 state law for each day when the board is actually in session
17 and their necessary mileage as provided by law.

18 NEW SECTION. Section 8. Duties of the committee. (.)
19 The committee shall study the proposed agricultural district
20 to evaluate the extent and nature of farming or ranching in
21 the area and the urban influences within the proposed
22 district by considering the following factors:

23 (a) the extent of active farming within the proposed
24 district and adjacent area;

25 (b) potential farmlands within the proposed district

1 that are not presently active farmlands;
 2 (c) the nature and extent of land uses other than
 3 farming within the proposed district and adjacent area;
 4 (d) county development patterns and needs; and
 5 (e) any other matters that the committee considers
 6 relevant.

7 (2) The committee shall within 45 days of its
 8 appointment:

9 (a) order notice of and hold a public hearing on the
 10 proposed district; and
 11 (b) make a recommendation on the proposed district to
 12 the county commissioners.

13 NEW SECTION. Section 9. Notice of hearing on petition
 14 to create an agricultural district. (1) If addresses are
 15 known, the commissioners shall mail notice of the hearing
 16 provided for in [section 8] to each nonresident and resident
 17 owner of taxable real and personal property within the
 18 proposed district.

19 (2) The commissioners shall post notice in three
 20 public places within the district. Where the agricultural
 21 district is partly in one county and partly in another
 22 county, notice must be posted in each county but not in
 23 three places in each county.

24 (3) The commissioners shall also publish notice of the
 25 time and place of the hearing in a newspaper within or

1 nearest the district and, if the district is partly in one
 2 county and partly in another county, in a newspaper in each
 3 county, if such newspapers exist. The publication must be
 4 for two weekly issues.

5 (4) Posting and first publication shall be at least 10
 6 days before the hearing.

7 NEW SECTION. Section 10. Hearing on petition to
 8 create agricultural district. (1) At the time fixed for the
 9 hearing, the committee shall determine whether or not the
 10 petition complies with the requirements of [this act] and
 11 whether or not the notice has been published and posted as
 12 required.

13 (2) At such hearing, the committee must hear all
 14 competent and relevant testimony offered in support of or in
 15 opposition to the petition and creation of the district.

16 NEW SECTION. Section 11. Creation of a agricultural
 17 district. (1) The commissioners shall within 30 days after
 18 receiving the recommendation from the committee approve or
 19 disapprove the creation of an agricultural district.

20 (2) The commissioners must determine that all of the
 21 requirements of [this act] have been complied with before
 22 they may create an agricultural district.

23 NEW SECTION. Section 12. Effective life of an
 24 agricultural district. A district shall be in effect for 8
 25 years after its creation, except that if 65% of the

1 landowners within the district petition and the
2 commissioners approve, a district can be created to be in
3 effect for 12 or 20 years.

4 NEW SECTION. Section 13. Agricultural district review
5 -- procedure. (1) The commissioners shall review each
6 district at the end of its effective life, whether the
7 effective life is 8, 12, or 20 years.

8 (2) In making a review, the commissioners shall:

9 (a) ask for the recommendations of an appointed
10 committee at least 120 days prior to the end of the
11 effective life of the district;

12 (b) provide notice in the manner required by [section
13 9] for a hearing on a petition to create a district and an
14 opportunity for a hearing at least 180 days prior to the end
15 of the effective life of the district;

16 (c) consider the following factors before making a
17 decision as provided for in subsection (d):

18 (i) public opinion within and adjacent to the
19 district;

20 (ii) whether 80% of the land within the district is
21 still actual or potential agricultural land; and

22 (iii) whether the continuation of the district will be
23 in accord with county comprehensive plans;

24 (d) within 30 days after receiving a report from the
25 committee and after a public hearing, terminate, modify, or

1 continue the district for another effective life as provided
2 in [section 12].

3 (3) If the commissioners do not act, the district
4 shall continue for another effective life as provided in
5 [section 12].

6 NEW SECTION. Section 14. Filing of a district
7 description. Upon the creation, continuation, modification,
8 or termination of a district, the county commissioners shall
9 file a description of the boundaries of the district with
10 the county clerk and recorder of each county that has land
11 within the district and with the conservation districts
12 division of the department of natural resources and
13 conservation.

14 NEW SECTION. Section 15. Annexation of land to the
15 district. (1) Any agricultural district at any time
16 subsequent to its creation may be enlarged to include
17 adjacent land upon the presentation to the commissioners of
18 a petition signed by at least 55% of the landowners in the
19 adjacent land.

20 (2) A proposal to include adjacent land within a
21 present district is to be considered in the same manner as a
22 proposal to create a new district pursuant to [sections 3
23 through 11 of this act].

24 NEW SECTION. Section 16. Establishment and operation
25 of agricultural districts. (1) Joint agricultural districts

1 (that is, districts which lie partly in one county and
2 partly in another) may be created, modified, continued, or
3 terminated in the same manner as provided in this part for
4 other districts, except that in such cases all petitions
5 must be directed to the commissioners of each county
6 affected and must be acted upon by them concurrently.

7 (2) In the case of such districts, the committee shall
8 be constituted in the same manner and shall have the same
9 powers as are provided for other committees in [this act],
10 except that appointments shall be made by joint action of
11 the commissioners in all counties affected and each county
12 shall be represented among the appointed members of the
13 board.

14 NEW SECTION. Section 17. Limit on subdivision. (1)
15 Land within a district may be subdivided if the land is to
16 be used for agricultural purposes.

17 (2) Land within a district may not be subdivided for
18 residential purposes.

19 NEW SECTION. Section 18. Limitation on local
20 regulation. No local government may enact laws or ordinances
21 within an agricultural district in a manner which would
22 unreasonably restrict or regulate farm structures or farming
23 practices in contravention to the purposes of [this act]
24 unless such restrictions or regulations bear a direct
25 relationship to the public health or safety.

1 NEW SECTION. Section 19. Policy of state agencies. It
2 is the policy of all state agencies to encourage the
3 maintenance of farming in agricultural districts and
4 administrative rules and procedures shall be modified to
5 this purpose if consistent with public health and safety.

6 NEW SECTION. Section 20. Limitation on the exercise
7 of eminent domain and on the advance of public funds. (1)
8 Any agency of the state, any corporation, or any local
9 government which intends to acquire land or any interest
10 therein, provided that the acquisition from any one actively
11 operated farm within the district would be in excess of 10
12 acres or that the total acquisition within the district
13 would be in excess of 100 acres, or which intends to advance
14 a grant, loan, interest subsidy, or other funds within a
15 district for the construction of dwellings, commercial or
16 industrial facilities, or water or sewer facilities to serve
17 nonfarm structures shall at least 30 days prior to such
18 action file a notice of intent with the director of the
19 department of natural resources and conservation containing
20 information in the manner and form he may require. The
21 notice of intent must contain a report justifying the
22 proposed action including an evaluation of alternatives
23 which would not require action within the agricultural
24 district.

25 (2) Upon receipt of such notice, the director shall

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1 review the proposed action to determine what effect the
 2 action would have upon the preservation and enhancement of
 3 agriculture and agricultural resources within the district,
 4 state environmental plans, policies and objectives, and
 5 state comprehensive plans, policies, and objectives.

6 (3) If the director finds that a proposed action might
 7 have an unreasonably adverse effect upon such goals,
 8 resources, plans, policies, or objectives, the director
 9 shall issue an order within the 30-day period to the agency,
 10 corporation, or government directing the agency,
 11 corporation, or government not to take any action for an
 12 additional period of 60 days immediately following the
 13 30-day period.

14 (4) During the additional 60-day period, the director
 15 shall hold a public hearing concerning the proposed action
 16 at a place within the district or otherwise easily
 17 accessible to the district upon notice in a newspaper having
 18 a general circulation within the district and individual
 19 notice, in writing, to all interested parties including the
 20 landowners within the district and the agency, corporation,
 21 or government proposing to take the action. On or before the
 22 conclusion of the additional 60-day period, the director
 23 shall report his findings to the agency, corporation, or
 24 government proposing to take the action, to any public
 25 agency having the power of review of or approval of the

1 action, and, in a manner conducive to the wide dissemination
 2 of the findings, to the public.

3 (5) The director may request the attorney general to
 4 bring an action to enjoin any agency, corporation, or
 5 government from violating any of the provisions of this
 6 section.

7 (6) This section does not apply to any emergency
 8 project which is immediately necessary for the protection of
 9 life or property.

10 Section 21. Section 15-6-107, MCA, is amended to read:

11 "15-6-107. Class six property -- description --
 12 taxable percentage. (1) Class six property includes
 13 agricultural land as defined in 15-7-202.

14 (2) Class six property not in agricultural districts
 15 as provided in [this act] is taxed at 30% of its assessed
 16 value.

17 (3) Class six property in agricultural districts as
 18 provided in [this act] is taxed at 20% of its assessed
 19 value."

20 Section 22. Severability. If a part of this act is
 21 invalid, all valid parts that are severable from the invalid
 22 part remain in effect. If a part of this act is invalid in
 23 one or more of its applications, the part remains in effect
 24 in all valid applications that are severable from the
 25 invalid applications.

STATE OF MONTANA

REQUEST NO. 391-79

FISCAL NOTE

Form BD-15

In compliance with a written request received February 15, 19 79, there is hereby submitted a Fiscal Note for Senate Bill 510 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

This proposed bill provides that landowners may petition the Board of County Commissioners of any county to create agricultural districts that will help preserve agricultural lands and give a property tax break for agricultural lands within such districts.

ASSUMPTIONS

- 1) The proposed legislation would have no impact in FY80.
- 2) The fiscal impact in FY81 would be a function of the amount and value of land that is created to form an agricultural district. This would be difficult to estimate, so no accurate fiscal impact can be stated.
- 3) To give some idea of the possible impact, various percentages of the total assessed value of agricultural land are given to show what effect the creation of agricultural districts in the same percentages might have on state and local revenues.

FISCAL IMPACT

	<u>FY 80</u>	<u>FY 81</u>
University Levy (6 mills) Estimated Impact	No Fiscal Impact	No accurate Fiscal Impact can be made (see assumption #3 and worksheet)

EFFECT ON LOCAL GOVERNMENTS

The impact on local revenues would depend on the amount and value of agricultural land that is made into an agricultural district. Any impact would be felt mainly in rural counties.

LONG-RANGE EFFECTS

No accurate estimate can be attempted.

PREPARED BY DEPARTMENT OF REVENUE

Richard J. Franz
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/21/79

POSSIBLE IMPACT OF PROPOSED LEGISLATION

TAXABLE YEAR 1979

<u>% of Agricultural Land Classified as an Agric. District</u>	<u>Local Levy 150 Mills (Rural)</u>	<u>University Levy 6 Mills</u>
	(Decrease in Revenues)	
10%	(\$ 697,000)	(\$ 28,000)
30%	(\$2,091,000)	(\$ 84,000)
50%	(\$3,485,000)	(\$ 139,000)