

Senate Bill 364

In The Senate

February 4, 1981

Introduced and referred  
to Committee on Judiciary.

February 18, 1981

Committee recommend bill  
do not pass.

1 *Senate* BILL NO. *364*  
2 INTRODUCED BY *Hefferman Hammond Hall*

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AWARD COSTS AND  
5 ATTORNEY'S FEES TO DEFENDANTS IN CERTAIN ENVIRONMENTAL CLASS  
6 ACTIONS AND REQUIRING SECURITY FOR SUCH COSTS AND FEES."

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

9 Section 1. Payment of costs and attorney's fees. The  
10 court shall award to the defendant and against the plaintiff  
11 those costs provided in 25-10-201 and the defendant's  
12 reasonable attorney's fees in any action that is brought as  
13 a class action under Rule 23 of the Montana Rules of Civil  
14 Procedure, that results in a judgment or dismissal of the  
15 action for the defendant, and is brought:

16 (1) under the provisions of any law enacted for the  
17 protection of air or water quality or the protection of  
18 mineral, timber, wildlife, or other natural resources in  
19 their natural and undeveloped state; or

20 (2) under the provisions of Title 27, chapter 30, part  
21 1, relating to public nuisances, and that would prohibit,  
22 interfere with or delay any otherwise lawful industrial, or  
23 commercial development, construction, or operation or any  
24 otherwise lawful program, operation, or project of this  
25 state or any political subdivision; or

1 (3) to challenge the validity of a permit or license  
2 issued by any state agency pursuant to chapters 2, 3, 5, 10,  
3 or 20 of Title 75; chapter 8 of Title 80; or chapters 1 or 4  
4 of Title 82.

5 Section 2. Security for certain actions required. (1)  
6 In any action brought as a class action under Rule 23 of the  
7 Montana Rules of Civil Procedure and under subsection (1),  
8 (2), or (3) of [section 1], security for costs and  
9 attorney's fees, which may be awarded under [section 1],  
10 shall be required by the court.

11 (2) When security is required, all proceedings in the  
12 action must be stayed until an undertaking, executed by two  
13 or more persons, is filed with the clerk to the effect that  
14 they will pay such costs and fees as may be awarded against  
15 the representative plaintiff under [section 1]. A new or an  
16 additional undertaking shall be ordered by the court or  
17 judge upon proof that the original undertaking is  
18 insufficient security, and proceedings in the action must be  
19 stayed until the new or additional undertaking is executed  
20 and filed.

21 (3) After the lapse of 30 days from the commencement  
22 of the action or of an order for new or additional security,  
23 upon proof thereof and that no undertaking as required has  
24 been filed, the court or judge shall order the action to be  
25 dismissed.

1       Section 3. Severability. If a part of this act is  
2       invalid, all valid parts that are severable from the invalid  
3       part remain in effect. If a part of this act is invalid in  
4       one or more of its applications, the part remains in effect  
5       in all valid applications that are severable from the  
6       invalid applications.

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