

SENATE BILL NO. 405

INTRODUCED BY REGAN

IN THE SENATE

February 9, 1981	Introduced and referred to Committee on State Administration. Fiscal note requested.
February 14, 1981	Fiscal note returned.
February 18, 1981	Committee recommend bill do pass as amended. Report adopted.
February 19, 1981	Bill printed and placed on members' desks.
February 20, 1981	Second reading, do pass.
February 23, 1981	Correctly engrossed.
February 24, 1981	Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.

IN THE HOUSE

March 3, 1981	Introduced and referred to Committee on State Administration.
March 18, 1981	Committee recommend bill be concurred in. Report adopted.
March 21, 1981	Second reading, concurred in.
March 24, 1981	Third reading, concurred in. Ayes, 98; Noes, 1.

IN THE SENATE

March 25, 1981	Returned from House. Concurred in. Sent to enrolling. Reported correctly enrolled.
----------------	---

1 INTRODUCED BY Sen. [Signature] BILL NO. 405

2
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE DUTIES
5 OF THE DEPARTMENT OF COMMUNITY AFFAIRS UNDER THE MONTANA
6 SUBDIVISION AND PLATTING ACT AND ASSIGN CERTAIN OF THESE
7 DUTIES TO THE BOARD OF PROFESSIONAL ENGINEERS AND LAND
8 SURVEYORS; AMENDING SECTIONS 37-67-202, 76-3-403, 76-3-504,
9 76-3-603, AND 76-4-129, MCA; AND REPEALING SECTION 76-3-502,
10 MCA."

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

13 Section 1. Section 37-67-202, MCA, is amended to read:
14 "37-67-202. Rulemaking and subpoena power. (1) The
15 board shall have the power to adopt and amend all rules,
16 including rules of procedure, not inconsistent with the
17 constitution and laws of this state, which may be reasonably
18 necessary for the proper performance of its duties and the
19 regulation of the proceedings before it.

20 ~~(2) The board shall by rule adopt the surveying and~~
21 ~~monumentation standards prescribed by 76-3-403.~~

22 ~~(2)(3)~~ In carrying into effect the provisions of this
23 chapter, the board, under the hand of its chairman and the
24 seal of the board, may subpoena witnesses and compel their
25 attendance and also may require the production of books,

1 papers, documents, etc., in a case involving the revocation
2 of registration or practicing or offering to practice
3 without registration. Any member of the board may administer
4 oaths or affirmations to witnesses appearing before the
5 board. If any person shall refuse to obey any subpoena so
6 issued or shall refuse to testify or produce any books,
7 papers, or documents, the board may present its petition to
8 the district court setting forth the facts, and thereupon
9 such court shall, in a proper case, issue its subpoena to
10 such person requiring his attendance before such authority
11 and there to testify or to produce such books, papers, and
12 documents as may be deemed necessary and pertinent by the
13 board. Any person failing or refusing to obey the subpoena
14 or order of the court may be proceeded against in the same
15 manner as for refusal to obey any other subpoena or order of
16 said court."

17 Section 2. Section 76-3-403, MCA, is amended to read:
18 "76-3-403. Monumentation. (1) The ~~department--of~~
19 ~~community-affairs~~ board of professional engineers and land
20 surveyors shall, in conformance with the Montana
21 Administrative Procedure Act, prescribe uniform standards
22 for monumentation and for the form, accuracy, and
23 descriptive content of records of survey.

24 (2) It shall be the responsibility of the governing
25 body to require the replacement of all monuments removed in

-2- INTRODUCED BILL
SB 405

1 the course of construction."

2 Section 3. Section 76-3-504, MCA, is amended to read:

3 "76-3-504. Minimum requirements for subdivision
4 regulations. ~~(1) Not later than December 31, 1973, the~~
5 ~~department of community affairs, through its division of~~
6 ~~planning, shall, in conformance with the Montana~~
7 ~~Administrative Procedure Act, prescribe reasonable minimum~~
8 ~~requirements for subdivision regulations adopted pursuant to~~
9 ~~this chapter.~~

10 ~~(2) The minimum requirements shall include detailed~~
11 ~~criteria for the content of the environmental assessment~~
12 ~~required by this chapter. In prescribing the minimum~~
13 ~~contents of the subdivision regulations, the department of~~
14 ~~community affairs, through its division of planning, shall~~
15 ~~require the submission by the subdivider to the governing~~
16 ~~body of an environmental assessment.~~

17 ~~(3) The department shall provide for the review of~~
18 ~~preliminary plats by those agencies of state and local~~
19 ~~government and affected public utilities having a~~
20 ~~substantial interest in a proposed subdivision. Such agency~~
21 ~~or utility review shall not delay the governing body's~~
22 ~~action on the plat beyond the time limit specified herein~~
23 ~~and the failure of any agency to complete a review of a plat~~
24 ~~shall not be a basis for rejection of the plat by the~~
25 ~~governing body. The subdivision regulations adopted under~~

1 this chapter shall, at a minimum:

2 (1) require the subdivider to submit to the governing
3 body an environmental assessment as prescribed in 76-3-602;

4 (2) establish procedures consistent with this chapter
5 for the submission and review of subdivision plats;

6 (3) prescribe the form and contents of preliminary
7 plats and the documents to accompany final plats;

8 (4) provide for the identification of areas which,
9 because of natural or man-caused hazards, are unsuitable for
10 subdivision development and prohibit subdivisions in these
11 areas unless the hazards can be eliminated or overcome by
12 approved construction techniques;

13 (5) prohibit subdivisions for building purposes in
14 areas located within the floodway of a flood of 100-year
15 frequency as defined by Title 76, chapter 5, or determined
16 to be subject to flooding by the governing body;

17 (6) prescribe standards for:

18 (a) the design and arrangement of lots, streets, and
19 roads;

20 (b) grading and drainage;

21 (c) water supply and sewage and solid waste disposal
22 which, at a minimum, meet the regulations adopted by the
23 department of health and environmental sciences under
24 76-4-104;

25 (d) the location and installation of utilities;

1 (7) provide procedures for the administration of the
2 park and open space requirements of this chapter;

3 (8) provide for the review of preliminary plats by
4 affected public utilities and those agencies of local,
5 state, and federal government having a substantial interest
6 in a proposed subdivision; such utility or agency review may
7 not delay the governing body's action on the plat beyond the
8 time limits specified in this chapter, and the failure of
9 any agency to complete a review of a plat may not be a basis
10 for rejection of the plat by the governing body."

11 Section 4. Section 76-3-603, MCA, is amended to read:

12 "76-3-603. Contents of environmental assessment. Where
13 required, the environmental assessment shall accompany the
14 preliminary plat and shall include:

15 (1) a description of every body or stream of surface
16 water as may be affected by the proposed subdivision,
17 together with available groundwater information, and a
18 description of the topography, vegetation, and wildlife use
19 within the area of the proposed subdivision;

20 (2) maps and tables showing soil types in the several
21 parts of the proposed subdivision and their suitability for
22 any proposed developments in those several parts;

23 (3) a community impact report containing a statement
24 of anticipated needs of the proposed subdivision for local
25 services, including education and busing; roads and

1 maintenance; water, sewage, and solid waste facilities; and
2 fire and police protection;

3 (4) such additional relevant and reasonable
4 information as may be required by the ~~department through its~~
5 ~~division of planning governing body."~~

6 Section 5. Section 76-4-129, MCA, is amended to read:

7 "76-4-129. Joint application form and concurrent
8 review. (1) Within 90 days after July 1, 1977, the
9 department ~~and the department of community affairs~~ shall
10 prepare and distribute a joint application form that can be
11 used by an applicant to apply for approval of a subdivision
12 under the provisions of this part and the provisions of
13 chapter 3. When an application is received by either the
14 department or a local government, the department or local
15 government is responsible for forwarding the appropriate
16 parts of the application to the other entity.

17 (2) The review required by this part and the
18 provisions of chapter 3 shall occur concurrently."

19 Section 6. Repealer. Section 76-3-502, MCA, is
20 repealed.

-End-

STATE OF MONTANA

REQUEST NO. 332-81

FISCAL NOTE

Form BD-15

In compliance with a written request received February 9, 19 81, there is hereby submitted a Fiscal Note for Senate Bill 405 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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

An act to eliminate the duties of the Department of Community Affairs under the Montana Subdivision and Platting Act and assign certain of these duties to the Board of Professional Engineers and Land Surveyors.

Assumptions

1. Assume .10 additional FTE (Grade 12) to administer subdivision and platting act.

Fiscal Impact

FY 1982

FY 1983

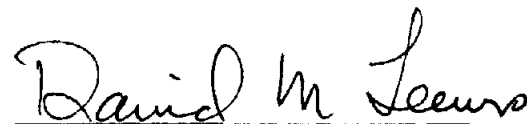
Expenditure:

Personal Services

\$1,483

\$1,483

This cost would be paid from the Board's earmarked account.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-12-81

Approved by Committee
on State Administration

1 SENATE BILL NO. 405

2 INTRODUCED BY REGAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE
5 CERTAIN DUTIES OF THE DEPARTMENT OF COMMUNITY AFFAIRS UNDER
6 THE MONTANA SUBDIVISION AND PLATTING ACT AND ASSIGN CERTAIN
7 ~~OF THESE DUTIES TO THE BOARD OF PROFESSIONAL ENGINEERS AND~~
8 ~~LAND SURVEYORS TO ESTABLISH MINIMUM SUBDIVISION REGULATION~~
9 REQUIREMENTS FOR LOCAL GOVERNMENTS; AMENDING SECTIONS
10 37-67-202, 76-3-403, 76-3-504, 76-3-603, AND 76-4-129, MCA;
11 AND REPEALING SECTION SECTIONS 76-3-502 AND 76-3-508, MCA."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 17 Section 37-67-202, MCA, is amended to read:

15 "37-67-202. Rulemaking and subpoena power. (1) The
16 board shall have the power to adopt and amend all rules
17 including rules of procedure not inconsistent with the
18 constitution and laws of this state which may be reasonably
19 necessary for the proper performance of its duties and the
20 regulation of the proceedings before it.

21 (2) The board shall by rule adopt the surveying and
22 monumentation standards prescribed by 76-3-403.

23 (2)(3) In carrying into effect the provisions of this
24 chapter the board, under the hand of its chairman and the
25 seat of the board, may subpoena witnesses and compel their

1 attendance and also may require the production of books,
2 papers, documents, etc., in a case involving the revocation
3 of registration or practicing or offering to practice
4 without registration. Any member of the board may administer
5 oaths or affirmations to witnesses appearing before the
6 board. If any person shall refuse to obey any subpoena so
7 issued or shall refuse to testify or produce any books,
8 papers, or documents, the board may present its petition to
9 the district court setting forth the facts and thereupon
10 such court shall, in a proper case, issue its subpoena to
11 such person requiring his attendance before such authority
12 and there to testify or to produce such books, papers, and
13 documents as may be deemed necessary and pertinent by the
14 board. Any person failing or refusing to obey the subpoena
15 or order of the court may be proceeded against in the same
16 manner as for refusal to obey any other subpoena or order of
17 said court."

18 Section 27 Section 76-3-403, MCA, is amended to read:

19 "76-3-403. Monumentation. (1) The department of
20 community affairs board of professional engineers and land
21 surveyors shall, in conformance with the Montana
22 Administrative Procedure Act, prescribe uniform standards
23 for monumentation and for the form, accuracy, and
24 descriptive content of records of surveys.

25 (2) It shall be the responsibility of the governing

1 ~~body--to-require-the-replacement-of-all-monuments-removed-in~~
 2 ~~the-course-of-construction."~~

3 Section 1. Section 76-3-504, MCA, is amended to read:
 4 "76-3-504. Minimum requirements for subdivision
 5 regulations. ~~(1) Not later than December 31, 1973, the~~
 6 ~~department--of--community--affairs,--through-its-division-of~~
 7 ~~planning,--shall,--in--conformance--with--the--Montana~~
 8 ~~Administrative--Procedure--Act,--prescribe-reasonable-minimum~~
 9 ~~requirements-for-subdivision-regulations-adopted-pursuant-to~~
 10 ~~this-chapter.~~

11 ~~(2) The minimum requirements shall include detailed~~
 12 ~~criteria--for--the--content--of--the--environmental--assessment~~
 13 ~~required--by--this--chapter,--in--prescribing--the--minimum~~
 14 ~~contents--of--the--subdivision-regulations,--the--department-of~~
 15 ~~community-affairs,--through-its-division-of--planning,--shall~~
 16 ~~require--the--submission--by--the--subdivider--to--the--governing~~
 17 ~~body--of--an--environmental--assessment.~~

18 ~~(3) The department shall provide for the review of~~
 19 ~~preliminary--plats--by--those--agencies--of--state--and--local~~
 20 ~~government--and--affected--public--utilities--having--a~~
 21 ~~substantial--interest--in--a--proposed--subdivision. Such agency~~
 22 ~~or--utility--review--shall--not--delay--the--governing-body's~~
 23 ~~action--on--the--plat--beyond--the--time--limit--specified--herein~~
 24 ~~and--the--failure--of--any--agency--to--complete--a--review--of--a--plat~~
 25 ~~shall--not--be--a--basis--for--rejection--of--the--plat--by--the~~

1 ~~governing body.~~ The subdivision regulations adopted under
 2 this chapter shall, at a minimum:

3 (1) require the subdivider to submit to the governing
 4 body an environmental assessment as prescribed in 76-3-603;

5 (2) establish procedures consistent with this chapter
 6 for the submission and review of subdivision plats;

7 (3) prescribe the form and contents of preliminary
 8 plats and the documents to accompany final plats;

9 (4) provide for the identification of areas which,
 10 because of natural or man-caused hazards, are unsuitable for
 11 subdivision development and prohibit subdivisions in these
 12 areas unless the hazards can be eliminated or overcome by
 13 approved construction techniques;

14 (5) prohibit subdivisions for building purposes in
 15 areas located within the floodway of a flood of 100-year
 16 frequency as defined by Title 76, chapter 5, or determined
 17 to be subject to flooding by the governing body;

18 (6) prescribe standards for:
 19 (a) the design and arrangement of lots, streets, and
 20 roads;

21 (b) grading and drainage;

22 (c) water supply and sewage and solid waste disposal
 23 which, at a minimum, meet the regulations adopted by the
 24 department of health and environmental sciences under
 25 76-4-104;

1 (d) the location and installation of utilities;

2 (7) provide procedures for the administration of the
3 park and open space requirements of this chapter;

4 (8) provide for the review of preliminary plats by
5 affected public utilities and those agencies of local,
6 state, and federal government having a substantial interest
7 in a proposed subdivision; such utility or agency review may
8 not delay the governing body's action on the plat beyond the
9 time limits specified in this chapter, and the failure of
10 any agency to complete a review of a plat may not be a basis
11 for rejection of the plat by the governing body."

12 Section 2. Section 76-3-603, MCA, is amended to read:

13 "76-3-603. Contents of environmental assessment. Where
14 required, the environmental assessment shall accompany the
15 preliminary plat and shall include:

16 (1) a description of every body or stream of surface
17 water as may be affected by the proposed subdivision,
18 together with available groundwater information, and a
19 description of the topography, vegetation, and wildlife use
20 within the area of the proposed subdivision;

21 (2) maps and tables showing soil types in the several
22 parts of the proposed subdivision and their suitability for
23 any proposed developments in those several parts;

24 (3) a community impact report containing a statement
25 of anticipated needs of the proposed subdivision for local

1 services, including education and busing; roads and
2 maintenance; water, sewage, and solid waste facilities; and
3 fire and police protection;

4 (4) such additional relevant and reasonable
5 information as may be required by the ~~department-through-its~~
6 division-of-planning governing body."

7 Section 3. Section 76-4-129, MCA, is amended to read:

8 "76-4-129. Joint application form and concurrent
9 review. (1) Within 90 days after July 1, 1977, the
10 ~~department and the department--of--community--affairs~~ shall
11 prepare and distribute a joint application form that can be
12 used by an applicant to apply for approval of a subdivision
13 under the provisions of this part and the provisions of
14 chapter 3. When an application is received by either the
15 ~~department~~ or a local government, the ~~department~~ or local
16 government is responsible for forwarding the appropriate
17 parts of the application to the other entity.

18 (2) The review required by this part and the
19 provisions of chapter 3 shall occur concurrently."

20 Section 4. Repealer. Section SECTIONS 76-3-502 AND
21 76-3-508, MCA, is ARE repealed.

-End-

SENATE BILL NO. 405

INTRODUCED BY REGAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE CERTAIN DUTIES OF THE DEPARTMENT OF COMMUNITY AFFAIRS UNDER THE MONTANA SUBDIVISION AND PLATTING ACT AND ASSIGN CERTAIN OF THESE DUTIES TO THE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS TO ESTABLISH MINIMUM SUBDIVISION REGULATION REQUIREMENTS FOR LOCAL GOVERNMENTS; AMENDING SECTIONS 37-67-202, 76-3-403, 76-3-504, 76-3-603, AND 76-4-129, MCA; AND REPEALING SECTION SECTIONS 76-3-502 AND 76-3-508, MCA."

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

Section 1. Section 37-67-202, MCA, is amended to read:

"37-67-202. Rulemaking and subpoena power. (1) The board shall have the power to adopt and amend all rules, including rules of procedure, not inconsistent with the constitution and laws of this state, which may be reasonably necessary for the proper performance of its duties and the regulation of the proceedings before it.

(2) The board shall by rule adopt the surveying and monumentation standards prescribed by 76-3-403.

(3) In carrying into effect the provisions of this chapter the board, under the hand of its chairman and the seal of the board, may subpoena witnesses and compel their

attendance and also may require the production of books, papers, documents, etc., in a case involving the revocation of registration or practicing or offering to practice without registration. Any member of the board may administer oaths or affirmations to witnesses appearing before the board. If any person shall refuse to obey any subpoena so issued or shall refuse to testify or produce any books, papers, or documents, the board may present its petition to the district court setting forth the facts and thereupon such court shall, in a proper case, issue its subpoena to such person requiring his attendance before such authority and there to testify or to produce such books, papers, and documents as may be deemed necessary and pertinent by the board. Any person failing or refusing to obey the subpoena or order of the court may be proceeded against in the same manner as for refusal to obey any other subpoena or order of said court."

Section 2. Section 76-3-403, MCA, is amended to read:

"76-3-403. Monumentation. (1) The department of community affairs board of professional engineers and land surveyors shall, in conformance with the Montana Administrative Procedure Act, prescribe uniform standards for monumentation and for the form, accuracy, and descriptive content of records of surveys.

(2) It shall be the responsibility of the governing

1 ~~body to require the replacement of all monuments removed in~~
 2 ~~the course of construction.~~

3 Section 1. Section 76-3-504, MCA, is amended to read:
 4 "76-3-504. Minimum requirements for subdivision
 5 regulations. ~~(1) Not later than December 31, 1973, the~~
 6 ~~department of community affairs, through its division of~~
 7 ~~planning, shall in conformance with the Montana~~
 8 ~~Administrative Procedure Act, prescribe reasonable minimum~~
 9 ~~requirements for subdivision regulations adopted pursuant to~~
 10 ~~this chapter.~~

11 ~~(2) The minimum requirements shall include detailed~~
 12 ~~criteria for the content of the environmental assessment~~
 13 ~~required by this chapter, in prescribing the minimum~~
 14 ~~contents of the subdivision regulations, the department of~~
 15 ~~community affairs, through its division of planning, shall~~
 16 ~~require the submission by the subdivider to the governing~~
 17 ~~body of an environmental assessment.~~

18 ~~(3) The department shall provide for the review of~~
 19 ~~preliminary plats by those agencies of state and local~~
 20 ~~government and affected public utilities having a~~
 21 ~~substantial interest in a proposed subdivision. Such agency~~
 22 ~~or utility review shall not delay the governing body's~~
 23 ~~action on the plat beyond the time limit specified herein,~~
 24 ~~and the failure of any agency to complete a review of a plat~~
 25 ~~shall not be a basis for rejection of the plat by the~~

1 ~~governing body.~~ The subdivision regulations adopted under
 2 this chapter shall, at a minimum:

3 (1) require the subdivider to submit to the governing
 4 body an environmental assessment as prescribed in 76-3-603;

5 (2) establish procedures consistent with this chapter
 6 for the submission and review of subdivision plats;

7 (3) prescribe the form and contents of preliminary
 8 plats and the documents to accompany final plats;

9 (4) provide for the identification of areas which,
 10 because of natural or man-caused hazards, are unsuitable for
 11 subdivision development and prohibit subdivisions in these
 12 areas unless the hazards can be eliminated or overcome by
 13 approved construction techniques;

14 (5) prohibit subdivisions for building purposes in
 15 areas located within the floodway of a flood of 100-year
 16 frequency as defined by Title 76, chapter 5, or determined
 17 to be subject to flooding by the governing body;

18 (6) prescribe standards for:
 19 (a) the design and arrangement of lots, streets, and
 20 roads;

21 (b) grading and drainage;

22 (c) water supply and sewage and solid waste disposal
 23 which, at a minimum, meet the regulations adopted by the
 24 department of health and environmental sciences under
 25 76-4-104;

1 (d) the location and installation of utilities;
 2 (7) provide procedures for the administration of the
 3 park and open space requirements of this chapter;
 4 (8) provide for the review of preliminary plats by
 5 affected public utilities and those agencies of local,
 6 state, and federal government having a substantial interest
 7 in a proposed subdivision; such utility or agency review may
 8 not delay the governing body's action on the plat beyond the
 9 time limits specified in this chapter, and the failure of
 10 any agency to complete a review of a plat may not be a basis
 11 for rejection of the plat by the governing body."

12 Section 2. Section 76-3-603, MCA, is amended to read:
 13 "76-3-603. Contents of environmental assessment. Where
 14 required, the environmental assessment shall accompany the
 15 preliminary plat and shall include:

16 (1) a description of every body or stream of surface
 17 water as may be affected by the proposed subdivision,
 18 together with available groundwater information, and a
 19 description of the topography, vegetation, and wildlife use
 20 within the area of the proposed subdivision;

21 (2) maps and tables showing soil types in the several
 22 parts of the proposed subdivision and their suitability for
 23 any proposed developments in those several parts;

24 (3) a community impact report containing a statement
 25 of anticipated needs of the proposed subdivision for local

1 services, including education and busing; roads and
 2 maintenance; water, sewage, and solid waste facilities; and
 3 fire and police protection;

4 (4) such additional relevant and reasonable
 5 information as may be required by the department--through-its
 6 ~~division-of-planning governing body."~~

7 Section 3. Section 76-4-129, MCA, is amended to read:
 8 "76-4-129. Joint application form and concurrent
 9 review. (1) Within 90 days after July 1, 1977, the
 10 department and-the-department--of--community--affairs shall
 11 prepare and distribute a joint application form that can be
 12 used by an applicant to apply for approval of a subdivision
 13 under the provisions of this part and the provisions of
 14 chapter 3. When an application is received by either the
 15 department or a local government, the department or local
 16 government is responsible for forwarding the appropriate
 17 parts of the application to the other entity.

18 (2) The review required by this part and the
 19 provisions of chapter 3 shall occur concurrently."

20 Section 4. Repealer. Section SECTIONS 76-3-502 AND
 21 76-3-508, MCA, is ARE repealed.

-End-

SENATE BILL NO. 405
INTRODUCED BY REGAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE CERTAIN DUTIES OF THE DEPARTMENT OF COMMUNITY AFFAIRS UNDER THE MONTANA SUBDIVISION AND PLATTING ACT AND ASSIGN CERTAIN OF THESE DUTIES TO THE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS TO ESTABLISH MINIMUM SUBDIVISION REGULATION REQUIREMENTS FOR LOCAL GOVERNMENTS; AMENDING SECTIONS 37-67-202, 76-3-403, 76-3-504, 76-3-603, AND 76-4-129, MCA; AND REPEALING SECTIONS 76-3-502 AND 76-3-508, MCA."

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

Section 1 of Section 37-67-202, MCA, is amended to read: "37-67-202. Rulemaking and subpoena power. (1) The board shall have the power to adopt and amend all rules, including rates of procedure, not inconsistent with the constitution and laws of this state, which may be reasonably necessary for the proper performance of its duties and the regulation of the proceedings before it.

(2) The board shall by rule adopt the surveying and monumentation standards prescribed by 76-3-403.

(3) In carrying into effect the provisions of this chapter, the board, under the hand of its chairman and the seat of the board, may subpoena witnesses and compel their

attendance and also may require the production of books, papers, documents, etc., in a case involving the revocation of registration or practicing or offering to practice without registration. Any member of the board may administer oaths or affirmations to witnesses appearing before the board. If any person shall refuse to obey any subpoena so issued or shall refuse to testify or produce any books, papers, or documents, the board may present its petition to the district court setting forth the facts, and thereupon such court shall, in a proper case, issue its subpoena to such person requiring his attendance before such authority and there to testify or to produce such books, papers, and documents as may be deemed necessary and pertinent by the board. Any person failing or refusing to obey the subpoena or order of the court may be proceeded against in the same manner as for refusal to obey any other subpoena or order of said court."

Section 2 of Section 76-3-403, MCA, is amended to read: "76-3-403. Monumentation. (1) The department of community affairs, board of professional engineers, and land surveyors shall, in conformance with the Montana Administrative Procedure Act, prescribe uniform standards for monumentation and for the form, accuracy, and descriptive content of records of surveys.

(2) It shall be the responsibility of the governing

1 body to require the replacement of all monuments removed in
2 the course of construction."

3 Section 1. Section 76-3-504, MCA, is amended to read:
4 "76-3-504. Minimum requirements for subdivision
5 regulations. (1) Not later than December 31, 1973, the
6 department of community affairs, through its division of
7 planning, shall, in conformance with the Montana
8 Administrative Procedure Act, prescribe reasonable minimum
9 requirements for subdivision regulations adopted pursuant to
10 this chapter.

11 (2) The minimum requirements shall include detailed
12 criteria for the content of the environmental assessment
13 required by this chapter in prescribing the minimum
14 contents of the subdivision regulations; the department of
15 community affairs, through its division of planning, shall
16 require the submission by the subdivider to the governing
17 body of an environmental assessment.

18 (3) The department shall provide for the review of
19 preliminary plats by those agencies of state and local
20 government and affected public utilities having a
21 substantial interest in a proposed subdivision. Such agency
22 or utility review shall not delay the governing body's
23 action on the plat beyond the time limit specified herein,
24 and the failure of any agency to complete a review of a plat
25 shall not be a basis for rejection of the plat by the

1 governing body. The subdivision regulations adopted under
2 this chapter shall, at a minimum:

3 (1) require the subdivider to submit to the governing
4 body an environmental assessment as prescribed in 76-3-603;

5 (2) establish procedures consistent with this chapter
6 for the submission and review of subdivision plats;

7 (3) prescribe the form and contents of preliminary
8 plats and the documents to accompany final plats;

9 (4) provide for the identification of areas which,
10 because of natural or man-caused hazards, are unsuitable for
11 subdivision development and prohibit subdivisions in these
12 areas unless the hazards can be eliminated or overcome by
13 approved construction techniques;

14 (5) prohibit subdivisions for building purposes in
15 areas located within the floodway of a flood of 100-year
16 frequency as defined by Title 76, chapter 5, or determined
17 to be subject to flooding by the governing body;

18 (6) prescribe standards for:

19 (a) the design and arrangement of lots, streets, and
20 roads;

21 (b) grading and drainage;

22 (c) water supply and sewage and solid waste disposal
23 which, at a minimum, meet the regulations adopted by the
24 department of health and environmental sciences under
25 76-4-104;

- 1 (d) the location and installation of utilities;
- 2 (7) provide procedures for the administration of the
- 3 park and open space requirements of this chapter;
- 4 (8) provide for the review of preliminary plats by
- 5 affected public utilities and those agencies of local,
- 6 state, and federal government having a substantial interest
- 7 in a proposed subdivision; such utility or agency review may
- 8 not delay the governing body's action on the plat beyond the
- 9 time limits specified in this chapter, and the failure of
- 10 any agency to complete a review of a plat may not be a basis
- 11 for rejection of the plat by the governing body."

12 Section 2. Section 76-3-603, MCA, is amended to read:
 13 "76-3-603. Contents of environmental assessment. Where
 14 required, the environmental assessment shall accompany the
 15 preliminary plat and shall include:

- 16 (1) a description of every body or stream of surface
- 17 water as may be affected by the proposed subdivision,
- 18 together with available groundwater information, and a
- 19 description of the topography, vegetation, and wildlife use
- 20 within the area of the proposed subdivision;
- 21 (2) maps and tables showing soil types in the several
- 22 parts of the proposed subdivision and their suitability for
- 23 any proposed developments in those several parts;
- 24 (3) a community impact report containing a statement
- 25 of anticipated needs of the proposed subdivision for local

1 services, including education and busing; roads and
 2 maintenance; water, sewage, and solid waste facilities; and
 3 fire and police protection;

4 (4) such additional relevant and reasonable
 5 information as may be required by the ~~department through its~~
 6 ~~division of planning governing body."~~

7 Section 3. Section 76-4-129, MCA, is amended to read:

8 "76-4-129. Joint application form and concurrent
 9 review. (1) Within 90 days after July 1, 1977, the
 10 ~~department and the department of community affairs~~ shall
 11 prepare and distribute a joint application form that can be
 12 used by an applicant to apply for approval of a subdivision
 13 under the provisions of this part and the provisions of
 14 chapter 3. When an application is received by either the
 15 department or a local government, the department or local
 16 government is responsible for forwarding the appropriate
 17 parts of the application to the other entity.

18 (2) The review required by this part and the
 19 provisions of chapter 3 shall occur concurrently."

20 Section 4. Repealer. Section SECTIONS 76-3-502 AND
 21 76-3-508, MCA, is ARE repealed.

-End-