

HOUSE BILL NO. 228

INTRODUCED BY QUILICI, KITSELMAN, PAVLOVICH,
TOWE, LYNCH, MENAHAN, KEENAN, VINCENT, HAFPEY

BY REQUEST OF THE JOINT SUBCOMMITTEE ON BUSINESS

IN THE HOUSE

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| January 13, 1983 | Introduced and referred to Committee on Natural Resources. |
| February 18, 1983 | Committee recommend bill do pass as amended. Report adopted. |
| February 19, 1983 | Bill printed and placed on members' desks. |
| February 21, 1983 | Second reading, do pass. |
| February 22, 1983 | Considered correctly engrossed. |
| | Third reading, passed. Transmitted to Senate. |

IN THE SENATE

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| March 1, 1983 | Introduced and referred to Committee on Natural Resources. |
| March 18, 1983 | Committee recommend bill be concurred in as amended. Report adopted. |
| March 21, 1983 | Second reading, concurred in. |
| March 23, 1983 | Third reading, concurred in. Ayes, 49; Noes, 1. |

IN THE HOUSE

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| March 23, 1983 | Returned to House with amendments. |
| March 30, 1983 | Second reading, amendments concurred in. |
| March 31, 1983 | Third reading, amendments concurred in. |
| | Sent to enrolling. |
| April 5, 1983 | Correctly enrolled. |
| April 6, 1983 | Signed by Speaker. |
| April 8, 1983 | Signed by President. |
| April 11, 1983 | Delivered to Governor. |
| April 15, 1983 | Returned from Governor with recommended amendments. |
| April 18, 1983 | Second reading, Governor's amendments concurred in. |
| | Third reading, Governor's amendments concurred in. |

IN THE SENATE

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| April 19, 1983 | Governor's amendments transmitted to Senate. |
| April 20, 1983 | Second reading, Governor's amendments concurred in. |
| April 21, 1983 | Third reading, Governor's amendments concurred in. |

IN THE HOUSE

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| April 21, 1983 | Returned to House. Sent to enrolling. |
| | Reported correctly enrolled. |

1 *House* BILL NO. *228*
 2 INTRODUCED BY *Gulian Kitseiman* *Carbach* *For*
 3 BY REQUEST OF THE JOINT SUBCOMMITTEE ON BUSINESS *Tim*
 4 *Kearan Vincent Haffey* *Morahan*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROMOTING CONSISTENCY
 6 AND CONTINUITY IN THE ADOPTION AND APPLICATION OF
 7 ENVIRONMENTAL RULES; AMENDING SECTION 90-1-101, MCA."

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

10 Section 1. Section 90-1-101, MCA, is amended to read:

11 "90-1-101. Declaration of necessity and public policy.

12 (1) It is hereby declared to be a necessity and the public
 13 policy of the state to promote, stimulate, and encourage the
 14 planning and development of the economy of the state in
 15 order to provide for the social and economic prosperity of
 16 its citizens. Such promotion and development of industry,
 17 commerce, agriculture, labor, and natural resources of the
 18 state require that cognizance be taken of the continuing
 19 migration of people to the urban areas in search of job
 20 opportunities and the fact that Montana is making a needed
 21 transition to a diversified economy. Community planning,
 22 greater diversification of industry and attraction of
 23 additional industry, accelerated development of natural
 24 resources, expansion of existing industry, creation of new
 25 uses for agricultural products, greater emphasis on

1 scientific research, development of new markets for the
 2 products of the state, and the attainment of a proper
 3 balance in the overall economic base are all necessary in
 4 order to create additional employment opportunities,
 5 increase personal income, and promote the general welfare of
 6 the people of this state.

7 (2) The legislature recognizes that consistency and
 8 continuity in the adoption and application of environmental
 9 rules and other government regulations are essential to the
 10 protection and enhancement of Montana's economic well-being,
 11 that consistency and continuity are particularly important
 12 to those persons who have made commitments based on the
 13 existence of certain environmental rules and other
 14 government regulations, and that those persons are entitled
 15 to a reasonable expectation that rules will not be changed
 16 to their detriment. Therefore, it is the policy of the
 17 state to protect those persons who have made financial
 18 commitments based on existing administrative rules and not
 19 to change those rules to their detriment unless there is an
 20 overwhelming showing of need.

21 (2)(3) The department of commerce shall be regarded as
 22 performing a governmental function in carrying out the
 23 provisions of this part."

-End-

INTRODUCED BILL

Approved by Committee
on Natural Resources

HOUSE BILL NO. 228

INTRODUCED BY QUILICI, KITSELMAN, PAVLOVICH,

TOWE, LYNCH, MENAHAN, KEENAN, VINCENT, HAFEEY

BY REQUEST OF THE JOINT SUBCOMMITTEE ON BUSINESS

A BILL FOR AN ACT ENTITLED: "AN ACT PROMOTING CONSISTENCY
AND CONTINUITY IN THE ADOPTION AND APPLICATION OF
ENVIRONMENTAL RULES; AMENDING SECTION 90-1-101, MCA."

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

Section 1. Section 90-1-101, MCA, is amended to read:

"90-1-101. Declaration of necessity and public policy.

(1) It is hereby declared to be a necessity and the public
policy of the state to promote, stimulate, and encourage the
planning and development of the economy of the state in
order to provide for the social and economic prosperity of
its citizens. Such promotion and development of industry,
commerce, agriculture, labor, and natural resources of the
state require that cognizance be taken of the continuing
migration of people to the urban areas in search of job
opportunities and the fact that Montana is making a needed
transition to a diversified economy. Community planning,
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additional industry, accelerated development of natural
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order to create additional employment opportunities,
increase personal income, and promote the general welfare of
the people of this state.

~~(1) The legislature recognizes that consistency and
continuity in the adoption and application of environmental
rules and other government regulations are essential to the
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that consistency and continuity are particularly important
to those persons who have made commitments based on the
existence of certain environmental rules and other
government regulations, and that those persons are entitled
to a reasonable expectation that rules will not be changed
to their detriment. Therefore it is the policy of the state
to protect those persons who have made financial commitments
based on existing administrative rules and not to change
those rules to their detriment unless there is an
overwhelming showing of need.~~

~~(2)(3) The department of commerce shall be regarded as
performing a governmental function in carrying out the
provisions of this part 90-1-102, THROUGH 90-1-109."~~

-End-

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"90-1-101. Declaration of necessity and public policy.

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uses for agricultural products, greater emphasis on scientific research, development of new markets for the products of the state, and the attainment of a proper balance in the overall economic base are all necessary in order to create additional employment opportunities, increase personal income, and promote the general welfare of the people of this state.

~~(1) The legislature recognizes that consistency and continuity in the adoption and application of environmental rules and other government regulations are essential to the protection and enhancement of Montana's economic well-being, that consistency and continuity are particularly important to those persons who have made commitments based on the existence of certain environmental rules and other government regulations, and that those persons are entitled to a reasonable expectation that rules will not be changed to their detriment. Therefore, it is the policy of the state to protect those persons who have made financial commitments based on existing administrative rules and not to change those rules to their detriment unless there is an overwhelming showing of need.~~

(2)(3) The department of commerce shall be regarded as performing a governmental function in carrying out the provisions of this part 90-1-102 THROUGH 90-1-109."

-End-

March 18, 1983

SENATE STANDING COMMITTEE REPORT
(Natural Resources)

That House Bill No. 228 be amended as follows:

1. Title, line 8.

Following: "RULES"

Insert: "AFTER AN APPLICATION FOR AN ENVIRONMENTAL PERMIT HAS
BEEN COMPLETED"

2. Page 2, line 13.

Following: "made"

Strike: "commitments"

Insert: "a financial commitment after completing an application for
an environmental permit"

3. Page 2, line 16.

Strike: "rules"

Insert: "requirements in such a permit"

4. Page 2, line 17.

Following: "detriment."

Insert: "Therefore, when a person makes a financial commitment after
completing an application for an environmental permit it is the policy
of the state not to change the requirements in such a permit to the
detriment of such persons except upon a showing of clear and
convincing evidence of a need to protect public health, the environ-
ment or comply with federal regulations."

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its citizens. Such promotion and development of industry,
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state require that cognizance be taken of the continuing
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additional industry, accelerated development of natural
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products of the state, and the attainment of a proper
balance in the overall economic base are all necessary in
order to create additional employment opportunities,
increase personal income, and promote the general welfare of
the people of this state.

~~(2) The legislature recognizes that consistency and
continuity in the adoption and application of environmental
rules and other government regulations are essential to the
protection and enhancement of Montana's economic well-being,
that consistency and continuity are particularly important
to those persons who have made commitments A FINANCIAL
COMMITMENT AFTER COMPLETING AN APPLICATION FOR AN
ENVIRONMENTAL PERMIT based on the existence of certain
environmental rules and other government regulations, and
that those persons are entitled to a reasonable expectation
that such REQUIREMENTS IN SUCH A PERMIT will not be changed
to their detriment. THEREFORE, WHEN A PERSON MAKES A
FINANCIAL COMMITMENT AFTER COMPLETING AN APPLICATION FOR AN
ENVIRONMENTAL PERMIT, IT IS THE POLICY OF THE STATE NOT TO
CHANGE THE REQUIREMENTS IN SUCH A PERMIT TO THE DETRIMENT OF
SUCH PERSONS EXCEPT UPON A SHOWING OF CLEAR AND CONVINCING~~

1 EVIDENCE OF A NEED TO PROTECT THE PUBLIC HEALTH, THE
 2 ENVIRONMENT, OR TO COMPLY WITH FEDERAL REGULATIONS.
 3 ~~Therefore it is the policy of the state to protect those~~
 4 ~~persons who have made financial commitments based on~~
 5 ~~existing administrative rules and not to change these rules~~
 6 ~~to their detriment unless there is an overwhelming showing~~
 7 ~~of needs~~

8 (2)(3) The department of commerce shall be regarded as
 9 performing a governmental function in carrying out the
 10 provisions of this part 20-1-102 THROUGH 20-1-109."

-End-

PROPOSED AMENDMENT TO
HOUSE BILL NO. 228
REFERENCE COPY

1. Page 2, line 21 through page 3, line 2.

Following: " THEREFORE," on page 2, line 21

Strike: line 21 on page 2 through line 2 on page 3

Insert: "when a person makes a financial commitment after having completed an application for an environmental permit, it is the policy of the state not to change the requirements for such permit to the detriment of the applicant or permittee without having first taken into account and given consideration to previous expenditures made by the applicant or permittee."

Governor

HOUSE BILL NO. 228

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FINANCIAL COMMITMENT AFTER COMPLETING AN APPLICATION FOR AN
ENVIRONMENTAL PERMIT, IT IS THE POLICY OF THE STATE NOT TO
CHANGE THE REQUIREMENTS IN SUCH A PERMIT TO THE DETRIMENT OF
SUCH PERSONS EXCEPT UPON A SHOWING OF CLEAR AND CONVINCING~~

1 EVIDENCE--OF--A--NEED--TO--PROTECT--THE--PUBLIC--HEALTH--THE
 2 ENVIRONMENT--OR--TO--COMPLY--WITH--FEDERAL--REGULATIONS; WHEN A
 3 PERSON MAKES A FINANCIAL COMMITMENT AFTER HAVING COMPLETED
 4 AN APPLICATION FOR AN ENVIRONMENTAL PERMIT, IT IS THE POLICY
 5 OF THE STATE NOT TO CHANGE THE REQUIREMENTS FOR SUCH PERMIT
 6 TO THE DETRIMENT OF THE APPLICANT OR PERMITTEE WITHOUT
 7 HAVING FIRST TAKEN INTO ACCOUNT AND GIVEN CONSIDERATION TO
 8 PREVIOUS EXPENDITURES MADE BY THE APPLICANT OR PERMITTEE.
 9 Therefore, it is the policy of the state to protect those
 10 persons who have made financial commitments based on
 11 existing administrative rules and not to change those rules
 12 to their detriment unless there is an overwhelming showing
 13 of need.

14 {2}[3] The department of commerce shall be regarded as
 15 performing a governmental function in carrying out the
 16 provisions of this part 90-1-102 THROUGH 90-1-109."

-End-