

SENATE BILL NO. 406

Introduced: 02/12/83

Referred to Committee on Natural Resources: 02/15/83
Hearing: 2/18/83

On Motion, 2/19/83, That The bill Be Printed And Placed
On 2nd Reading. Motion Passed.

2nd Reading: 2/21/83
3rd reading: 02/23/83

Transmitted to House: 02/23/83

Referred to Committee on Natural Resources: 02/28/83
Hearing: 3/14/83
Report: 03/15/83, Be Not concurred In
Killed in Committee: 3/17/83

1 *Senate* BILL NO. *406*
2 INTRODUCED BY *Page*-----
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT THE
5 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES IN ITS
6 REVIEW OF SUBDIVISIONS FROM THE MONTANA ENVIRONMENTAL POLICY
7 ACT; TO PROVIDE THAT THE DEPARTMENT SHALL INSTEAD RELY ON
8 THE ENVIRONMENTAL ASSESSMENT SUBMITTED UNDER THE MONTANA
9 SUBDIVISION AND PLATTING ACT; AMENDING SECTIONS 75-1-201,
10 76-3-603, 76-4-104, AND 76-4-129, MCA."
11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13 Section 1. Section 75-1-201, MCA, is amended to read:
14 "75-1-201. General directions -- environmental impact
15 statements. (1) The legislature authorizes and directs that,
16 to the fullest extent possible:
17 (a) the policies, regulations, and laws of the state
18 shall be interpreted and administered in accordance with the
19 policies set forth in this chapter;
20 (b) all agencies of the state, except as provided in
21 subsection (2), shall:
22 (i) utilize a systematic, interdisciplinary approach
23 which will insure the integrated use of the natural and
24 social sciences and the environmental design arts in
25 planning and in decisionmaking which may have an impact on

1 man's environment;
2 (ii) identify and develop methods and procedures which
3 will insure that presently unquantified environmental
4 amenities and values may be given appropriate consideration
5 in decisionmaking along with economic and technical
6 considerations;
7 (iii) include in every recommendation or report on
8 proposals for projects, programs, legislation, and other
9 major actions of state government significantly affecting
10 the quality of the human environment, a detailed statement
11 on:
12 (A) the environmental impact of the proposed action;
13 (B) any adverse environmental effects which cannot be
14 avoided should the proposal be implemented;
15 (C) alternatives to the proposed action;
16 (D) the relationship between local short-term uses of
17 man's environment and the maintenance and enhancement of
18 long-term productivity; and
19 (E) any irreversible and irretrievable commitments of
20 resources which would be involved in the proposed action
21 should it be implemented;
22 (iv) study, develop, and describe appropriate
23 alternatives to recommend courses of action in any proposal
24 which involves unresolved conflicts concerning alternative
25 uses of available resources;

(v) recognize the national and long-range character of environmental problems and, where consistent with the policies of the state, lend appropriate support to initiatives, resolutions, and programs designed to maximize national cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(vi) make available to counties, municipalities, institutions, and individuals advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(vii) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(viii) assist the environmental quality council established by 5-16-101; and

(c) prior to making any detailed statement as provided in subsection (1)(b)(iii), the responsible state official shall consult with and obtain the comments of any state agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate state, federal, and local agencies which are authorized to develop and enforce environmental standards shall be made available to the governor, the environmental quality council, and the public and shall accompany the proposal

through the existing agency review processes.

(2) The department of public service regulation, in the exercise of its regulatory authority over rates and charges of railroads, motor carriers, and public utilities, is exempt from the provisions of this chapter.

~~(3) The department of health and environmental sciences, in the exercise of its regulatory authority over subdivisions under Title 76, chapter 4, is exempt from the provisions of this chapter.~~

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

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

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

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

(3) a community impact report containing a statement of anticipated needs of the proposed subdivision for local services, including education and busing; roads and maintenance; water, sewage, and solid waste facilities; and

1 fire and police protection;

2 (4) such additional relevant and reasonable
3 information as may be required by the governing body ~~or by~~
4 ~~the department of health and environmental sciences under~~
5 ~~its authority provided in chapter 4, part 1, of this title."~~

6 Section 3. Section 76-4-104, MCA, is amended to read:

7 "76-4-104. Rules for administration and enforcement.

8 (1) The department shall adopt reasonable rules, including
9 adoption of sanitary standards, necessary for administration
10 and enforcement of this part.

11 (2) The rules and standards shall provide the basis
12 for approving subdivision plats for various types of water,
13 sewage facilities, and solid waste disposal, both public and
14 private, and shall be related to size of lots, contour of
15 land, porosity of soil, groundwater level, distance from
16 lakes, streams, and wells, type and construction of private
17 water and sewage facilities, and other factors affecting
18 public health and the quality of water for uses relating to
19 agriculture, industry, recreation, and wildlife.

20 (3) The rules shall further provide for:

21 (a) the furnishing to the department of a copy of the
22 plat and other documentation showing the layout or plan of
23 development, including:

24 (i) total development area;

25 (ii) total number of proposed dwelling units;

1 (b) adequate evidence that a water supply that is
2 sufficient in terms of quality, quantity, and dependability
3 will be available to ensure an adequate supply of water for
4 the type of subdivision proposed;

5 (c) evidence concerning the potability of the proposed
6 water supply for the subdivision;

7 (d) adequate evidence that a sewage disposal facility
8 is sufficient in terms of capacity and dependability;

9 (e) standards and technical procedures applicable to
10 storm drainage plans and related designs, in order to insure
11 proper drainage ways;

12 (f) standards and technical procedures applicable to
13 sanitary sewer plans and designs, including soil percolation
14 testing and required percolation rates and site design
15 standards for on-lot sewage disposal systems when
16 applicable;

17 (g) standards and technical procedures applicable to
18 water systems;

19 (h) standards and technical procedures applicable to
20 solid waste disposal;

21 (i) requiring evidence to establish that, if a public
22 sewage disposal system is proposed, provision has been made
23 for the system and, if other methods of sewage disposal are
24 proposed, evidence that the systems will comply with state
25 and local laws and regulations which are in effect at the

1 time of submission of the preliminary or final plan or plat.
 2 ~~(4) The rules must specify that the department in its~~
 3 ~~review of subdivisions under this chapter is exempt from the~~
 4 ~~requirements of the Montana Environmental Policy Act as~~
 5 ~~provided in 75-1-201(3) and that the department shall~~
 6 ~~instead rely on information submitted by the subdivider~~
 7 ~~under 76-3-603. The rules must also specify that the~~
 8 ~~subdivider shall submit a copy of the environmental~~
 9 ~~assessment to the department."~~

10 Section 4. Section 76-4-129, MCA, is amended to read:
 11 "76-4-129. Joint application form and concurrent
 12 review. (1) Within 90 days after July 1, 1977, the
 13 department shall prepare and distribute a joint application
 14 form that can be used by an applicant to apply for approval
 15 of a subdivision under the provisions of this part and the
 16 provisions of chapter 3. When an application, ~~including the~~
 17 ~~environmental assessment provided for in 76-3-504 and~~
 18 ~~76-3-603~~, is received by either the department or a local
 19 government, the department or local government is
 20 responsible for forwarding the appropriate parts of the
 21 application to the other entity.

22 (2) The review required by this part and the
 23 provisions of chapter 3 shall occur concurrently.

24 ~~(3) The environmental assessment provided for in~~
 25 ~~76-3-603 must serve as the primary source of information~~

1 ~~from the subdivider upon which the department and the local~~
 2 ~~government shall base their review and decisions under this~~
 3 ~~part and chapter 3."~~

-End-