

SB 91 INTRODUCED BY HAMMOND, MARKS  
EXCLUDE SECONDARY IMPACT PERSONS FROM HARD-ROCK  
MINING IMPACT PLANS AND TAX  
BY REQUEST OF ADMINISTRATIVE CODE COMMITTEE

1/13 INTRODUCED  
1/13 REFERRED TO LOCAL GOVERNMENT  
2/23 HEARING  
2/23 COMMITTEE REPORT--BILL PASSED AS AMENDED  
4/23 PLACED ON 2ND READING AT DISCRETION  
OF PRESIDENT 50 0

DIED IN PROCESS

1 *Senate* BILL NO. 91  
 2 INTRODUCED BY *Hill's Amendment Mark*  
 3 BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT A  
 6 HARD-ROCK MINING DEVELOPER'S IMPACT PLAN AND LOCAL TAX  
 7 PAYMENTS NEED NOT TAKE INTO ACCOUNT PERSONS MOVING INTO THE  
 8 AREA, OTHER THAN WORKERS AND FAMILIES OF WORKERS  
 9 CONSTRUCTING AND OPERATING THE MINE; AMENDING SECTIONS  
 10 90-6-301 AND 90-6-307, MCA; REPEALING RULE 8.104.203A(1),  
 11 ADMINISTRATIVE RULES OF MONTANA; AND PROVIDING AN IMMEDIATE  
 12 EFFECTIVE DATE."

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

15 Section 1. Section 90-6-301, MCA, is amended to read:

16 "90-6-301. Declaration of necessity and purpose. (1)  
 17 The large-scale development of mineral deposits in the state  
 18 causes an influx of people into the development area of the  
 19 ~~development many times larger than the number of people~~  
 20 ~~directly involved in the mining operation of workers and~~  
 21 ~~families of workers constructing and operating the~~  
 22 ~~development.~~ This influx of people and the corresponding  
 23 increase in demand for local government facilities and  
 24 services creates a burden on the local taxpayer. There is a  
 25 significant lag time between the time when additional

1 facilities and services must be provided and the time when  
 2 additional tax revenue is available as a result of the  
 3 increased tax base. In addition, local government units in  
 4 whatever jurisdiction the development is not located may  
 5 receive substantial adverse economic impacts without benefit  
 6 of a major increased tax base in the future. There is  
 7 therefore a need to provide a system to assist local  
 8 government units in meeting the initial financial impact of  
 9 large-scale mineral development.

10 (2) It is not a purpose of this part to require  
 11 measurement of the economic impact on local government units  
 12 of the entry into the area, as a result of the development,  
 13 of persons other than workers and families of workers  
 14 constructing and operating the development or to require the  
 15 developer to help local government units finance the  
 16 increase in their capital and operating costs caused by the  
 17 influx into the area of persons other than workers and  
 18 families of workers constructing and operating the  
 19 development. However, such impact may be measured and the  
 20 increased costs financed in any manner mutually agreed upon  
 21 between the developer and the affected local government  
 22 units, including the manner set forth in this part."

23 Section 2. Section 90-6-307, MCA, is amended to read:

24 "90-6-307. Impact plan to be submitted. (1) After an  
 25 application for a permit for a large-scale mineral

1 development is made under 82-4-335, the person seeking the  
 2 permit shall submit to the affected counties and the board  
 3 an impact plan describing the economic impact the  
 4 large-scale mineral development will have on local  
 5 government units and shall file proof of such submission to  
 6 the counties with the board. Whenever an environmental  
 7 impact statement on the permit application is prepared under  
 8 75-1-201, the lead agency shall cooperate to the fullest  
 9 extent practicable with the affected local government units  
 10 to eliminate duplication of effort in data collection. The  
 11 governing bodies of the affected counties shall publish  
 12 notice of the submission of an impact plan at least once in  
 13 a newspaper of general circulation in the county. The  
 14 impact plan shall include:

15 (a) a timetable for development, including the opening  
 16 date of the development and the estimated closing date;

17 (b) the estimated number of persons workers and  
 18 families of workers constructing and operating the  
 19 development coming into the impacted area as a result of the  
 20 development;

21 (c) the increased capital and operating cost to local  
 22 government units for providing services which can be  
 23 expected as a result of the development;

24 (d) the financial or other assistance the developer  
 25 will give to local government units to meet the increased

1 need for services.

2 (2) For purposes of this part, persons other than  
 3 workers and families of workers constructing and operating  
 4 the development are not considered as coming into the area  
 5 as a result of the development.

6 ~~(2)~~(3) In the impact plan, the developer shall commit  
 7 itself to pay all of the increased capital and net operating  
 8 cost to local government units that will be a result of the  
 9 development, as identified in the impact plan, either from  
 10 tax prepayments, as provided in 90-6-309, special industrial  
 11 educational impact bonds, as provided in 90-6-310, or other  
 12 funds obtained from the developer, and shall provide a time  
 13 schedule within which it will do so. The plan may provide  
 14 for funding from other revenue sources or funding mechanisms  
 15 if the developer guarantees that the amount to be provided  
 16 from these sources will be paid.

17 ~~(3)~~(4) Upon request of the governing body of an  
 18 affected unit of local government, the mineral developer,  
 19 prior to the end of the 90-day review period, shall provide  
 20 financial or other assistance as necessary to prepare for  
 21 and evaluate the impact plan. The governing body of the  
 22 affected county must contract with the developer to obtain  
 23 the requested financial assistance for each unit of local  
 24 government within the county. Any disbursements to a unit of  
 25 local government under this subsection shall be credited

1 against future tax liabilities, if any.

2 ~~†4†~~(5) An affected local government unit shall, within  
3 90 days after receipt of the impact plan from the developer,  
4 notify the board in writing if that local government unit  
5 objects to the impact plan, specifying the reasons why the  
6 impact plan is objected to. During the 90-day period, an  
7 affected local government unit may petition for one 30-day  
8 extension by submitting a written request to the board  
9 stating the need and justification for the extension. The  
10 board shall grant the extension unless it finds there is no  
11 reasonable basis for the request. If no objection is  
12 received within the 90-day period or any extension thereof,  
13 the impact plan shall be approved by the board.

14 ~~†5†~~(6) If objections are received from a local  
15 government unit, the board shall, within 10 days, notify the  
16 developer and forward a copy of the local government unit's  
17 objections to the developer. The local government unit and  
18 the developer have 30 days, or a longer period if both the  
19 local government unit and the developer request an  
20 extension, to resolve the objection. If the objections are  
21 not resolved, the board shall conduct a hearing on the  
22 validity of the objections, which shall be held in the  
23 affected county or, if objections are received from local  
24 government units in more than one county, shall be held in  
25 the county which, in the board's judgment, is more greatly

1 affected. The provisions of the Montana Administrative  
2 Procedure Act shall apply to the conduct of the hearing. The  
3 impact plan filed by the developer shall carry no  
4 presumption of correctness at the hearing.

5 ~~†6†~~(7) Following the hearing, the board shall, within  
6 60 days, make findings as to those portions of the impact  
7 plan which were objected to and, if appropriate, amend the  
8 impact plan accordingly. The findings and impact plan, as  
9 amended, shall be served by the board upon all parties. Any  
10 local government unit or the developer, if aggrieved by the  
11 decision of the board, is entitled to judicial review, as  
12 provided by Title 2, chapter 4, part 7, in the district  
13 court in and for the judicial district in which the hearing  
14 was held.

15 ~~†7†~~(8) The developer shall, within 30 days of receipt  
16 of the approved impact plan, provide the board with a  
17 written guarantee that the developer will meet the increased  
18 costs of public services and facilities as specified in the  
19 approved impact plan and according to the time schedule  
20 contained in the approved impact plan.

21 ~~†8†~~(9) The developer may make payments as specified in  
22 the approved impact plan directly to a local government unit  
23 or to the board. The governing body of a local government  
24 unit receiving payments shall deposit the payments into an  
25 impact fund. The developer and the affected governing body

1 shall each issue to the board written verification of each  
 2 payment and its intended use in compliance with the impact  
 3 plan. The board shall deposit payments received from a  
 4 developer into the hard-rock mining impact account  
 5 established by 90-6-304.

6 ~~(9)~~(10) The board shall notify the department of state  
 7 lands of its receipt of the written guarantee of payment and  
 8 of any failure of the developer to comply with this section.

9 ~~(10)~~(11) Upon receipt of evidence that an affected  
 10 local government unit identified in the approved impact plan  
 11 is providing or is preparing to provide an additional  
 12 service or facility provided for in the approved impact  
 13 plan, the board shall, if the hard-rock mining impact  
 14 account is used to deliver payments to the local government  
 15 unit, pay to that local government unit, in one sum or in  
 16 parts, the money from the hard-rock mining impact account  
 17 identified in the plan as the increased cost to the local  
 18 government unit of providing that public service or  
 19 facility.

20 ~~(11)~~(12) If it is determined that an objection filed by  
 21 an affected local government unit under subsection ~~(4)~~(5) or  
 22 90-6-311(3) is valid and it results in some remedial order  
 23 by the board or court of competent jurisdiction, the local  
 24 government unit shall be awarded and the developer shall pay  
 25 reasonable costs and attorney fees associated with any

1 administrative or judicial appeals filed under this section.  
 2 Any attorney fees and costs awarded shall be in addition to  
 3 any amounts paid by the developer under this part.

4 ~~(12)~~(13) Upon a determination by the department of  
 5 state lands that a permittee under 82-4-335 has become or  
 6 will become a large-scale mineral developer, the permittee  
 7 may petition the board for a waiver of the impact plan  
 8 requirement. The board may grant a waiver or conditional  
 9 waiver of this requirement only if it has provided notice  
 10 and opportunity for hearing to the permittee and to all  
 11 affected local government units. The board shall adopt  
 12 criteria under which a waiver may be granted. A waiver  
 13 issued by the board may be revoked as provided in the  
 14 conditional waiver or if the permittee and contractors at  
 15 the mineral development increase their payrolls from the  
 16 date of the waiver by 75 or more persons, provided the  
 17 revocation is requested by an affected local government unit  
 18 and notice and opportunity for hearing are given to the  
 19 permittee and all affected local government units. The board  
 20 shall notify the board of land commissioners of any waiver  
 21 that has been revoked.

22 ~~(13)~~(14) When a person who holds an operating permit  
 23 under 82-4-335 and who has filed an impact plan fails to  
 24 comply with the review and implementation requirements in  
 25 this part and part 4 of this chapter, the board shall

1 certify to the board of land commissioners that the failure  
2 to comply has occurred and shall certify when a permittee  
3 who has previously failed to comply comes into compliance."

4 NEW SECTION. Section 3. Repealer. Subsection (1) of  
5 Rule 8.104.203A, Administrative Rules of Montana, is  
6 repealed.

7 NEW SECTION. Section 4. Extension of authority. Any  
8 existing authority of the hard-rock mining impact board to  
9 make rules on the subject of the provisions of this act is  
10 extended to the provisions of this act.

11 NEW SECTION. Section 5. Effective date. This act is  
12 effective on passage and approval.

-End-

APPROVED BY COMM.  
ON LOCAL GOVERNMENT

1 SENATE BILL NO. 91

2 INTRODUCED BY HAMMOND, MARKS

3 BY REQUEST OF THE ADMINISTRATIVE CODE COMMITTEE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT A  
6 HARD-ROCK MINING DEVELOPER'S IMPACT PLAN AND LOCAL TAX  
7 PAYMENTS NEED NOT TAKE INTO ACCOUNT PERSONS MOVING INTO THE  
8 AREA, OTHER THAN WORKERS AND FAMILIES OF WORKERS  
9 CONSTRUCTING AND OPERATING THE MINE; TO CLARIFY THAT THE  
10 IMPACT PLAN IS APPROVED WITHOUT ANY REVIEW BY THE HARD-ROCK  
11 MINING IMPACT BOARD IF NO OBJECTIONS ARE FILED WITHIN 90  
12 DAYS; AMENDING SECTIONS 90-6-301 AND 90-6-307, MCA;  
13 REPEALING RULE 8.104.203A(1), ADMINISTRATIVE RULES OF  
14 MONTANA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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25 increase in demand for local government facilities and

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8 of a major increased tax base in the future. There is  
9 therefore a need to provide a system to assist local  
10 government units in meeting the initial financial impact of  
11 large-scale mineral development.

12 (2) It is not a purpose of this part to require  
13 measurement of the economic impact on local government units  
14 of the entry into the area, as a result of the development,  
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 24 an affected local government unit under subsection ~~{4}~~{5} or  
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 10 may petition the board for a waiver of the impact plan  
 11 requirement. The board may grant a waiver or conditional  
 12 waiver of this requirement only if it has provided notice  
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 14 affected local government units. The board shall adopt  
 15 criteria under which a waiver may be granted. A waiver  
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 18 the mineral development increase their payrolls from the  
 19 date of the waiver by 75 or more persons, provided the  
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8 Rule 8.104.203A, Administrative Rules of Montana, is  
9 repealed.

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11 existing authority of the hard-rock mining impact board to  
12 make rules on the subject of the provisions of this act is  
13 extended to the provisions of this act.

14 NEW SECTION. Section 5. Effective date. This act is  
15 effective on passage and approval.

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