

HOUSE BILL NO. 482

INTRODUCED BY COCCHIARELLA, GOULD, STANG

IN THE HOUSE

JANUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
JANUARY 30, 1989	FIRST READING.
FEBRUARY 15, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 16, 1989	PRINTING REPORT.
FEBRUARY 18, 1989	SECOND READING, DO PASS.
FEBRUARY 20, 1989	ENGROSSING REPORT.
FEBRUARY 21, 1989	THIRD READING, PASSED. AYES, 90; NOES, 7.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
MARCH 9, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 10, 1989	SECOND READING, CONCURRED IN.
MARCH 13, 1989	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 14, 1989	RECEIVED FROM SENATE.
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SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 482
2 INTRODUCED BY Cashinella Stang
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE DEPARTMENT
5 OF HEALTH AND ENVIRONMENTAL SCIENCES TO DELEGATE REVIEW
6 POWERS TO QUALIFIED LOCAL DEPARTMENTS OF HEALTH FOR SMALL
7 PUBLIC WATER AND SEWER PROJECTS; AND AMENDING SECTIONS
8 75-6-102 AND 75-6-112, MCA."

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

11 NEW SECTION. **Section 1.** Submission and approval of
12 public water and sewer construction. (1) A person shall
13 submit necessary maps, plans, and specifications to the
14 department for its review and approval before the person may
15 construct, alter, or extend any public:

- 16 (a) water supply system;
17 (b) water distribution system;
18 (c) sewer system;
19 (d) drainage system;
20 (e) wastewater system; or
21 (f) sewage disposal system.

22 (2) If a local department of health has established
23 satisfactory review programs, the department may delegate to
24 the local department of health review of:

- 25 (a) public water systems that have less than 10

1 service connections to year-round residents; and

2 (b) public sewage systems that treat effluent by
3 application below the soil surface and that have less than
4 10 service connections to year-round residents.

5 **Section 2.** Section 75-6-102, MCA, is amended to read:

6 "75-6-102. Definitions. As used in this part, unless
7 the context clearly indicates otherwise, the following
8 definitions apply:

9 (1) "Board" means the board of health and
10 environmental sciences provided for in 2-15-2104.

11 (2) "Contamination" means impairment of the quality of
12 state waters by sewage, industrial wastes, or other wastes
13 creating a hazard to human health.

14 (3) "Department" means the department of health and
15 environmental sciences provided for in Title 2, chapter 15,
16 part 21.

17 (4) "Drainage" means rainfall, surface, and subsoil
18 water.

19 (5) "Industrial waste" means any waste substance from
20 the processes of business or industry or from the
21 development of any natural resource, together with any
22 sewage that may be present.

23 (6) "Maximum contaminant level" means the maximum
24 permissible level of a contaminant in water which is
25 delivered to any user of a public water supply system.

1 (7) "Other waste" means garbage, municipal refuse,
2 decayed wood, sawdust, shavings, bark, lime, sand, ashes,
3 offal, night soil, oil, grease, tar, heat, chemicals, dead
4 animals, sediment, wrecked or discarded equipment,
5 radioactive materials, solid waste, and all other substances
6 that may pollute state waters.

7 (8) "Person" means any individual, corporation,
8 association, partnership, municipality, other political
9 subdivision of the state, or federal agency.

10 (9) "Pollution" means contamination or other
11 alteration of the physical, chemical, or biological
12 properties of any state waters which exceeds that permitted
13 by Montana water quality standards, including but not
14 limited to standards relating to change in temperature,
15 taste, color, turbidity, or odor or the discharge or
16 introduction of any liquid, gaseous, solid, radioactive, or
17 other substance into any state water which will or is likely
18 to create a nuisance or render the waters harmful,
19 detrimental, or injurious to public health, recreation,
20 safety, welfare, livestock, wild animals, birds, fish, or
21 other wildlife. A discharge which is authorized under the
22 pollution discharge permit rules of the board is not
23 pollution under this chapter.

24 (10) "Public sewage system" means a system of
25 collection, transportation, treatment, or disposal of sewage

1 that is designed to serve or serves 10 or more families or
2 25 or more persons daily for a period of at least 60 days
3 out of the calendar year.

4 ~~{10}~~(11) "Public water supply system" means a system
5 for the provision of water for human consumption from any
6 community well, water hauler for cisterns, water bottling
7 plant, water dispenser, or other water supply that serves 10
8 or more families or 25 or more persons daily or has at least
9 10 service connections at least 60 days out of the calendar
10 year.

11 ~~{11}~~(12) "Safe Drinking Water Act" means 42 U.S.C. 300f
12 and regulations at Title 40, CFR, Parts 141 and 142.

13 ~~{12}~~(13) "Sewage" means water-carried waste products
14 from residences, public buildings, institutions, or other
15 buildings, including discharge from human beings, together
16 with groundwater infiltration and surface water present.

17 ~~{13}~~(14) "State waters" means any body of water,
18 irrigation system, or drainage system, either surface or
19 underground."

20 **Section 3.** Section 75-6-112, MCA, is amended to read:

21 "75-6-112. Prohibited acts. A person shall may not:

22 (1) discharge sewage, drainage, industrial waste, or
23 other wastes that will cause pollution of state waters used
24 by a person for domestic use or as a source for a public
25 water supply system or water or ice company;

(2) discharge sewage, drainage, industrial waste, or other waste into any state waters or on the banks of any state waters or into any abandoned or operating water well unless the sewage, drainage, industrial waste, or other waste is treated as prescribed by the board;

(3) build or operate any railroad, logging road, logging camp, or electric or manufacturing plant of any kind on any watershed of a public water supply system unless:

(a) the water supply is protected from pollution by sanitary precautions prescribed by the board; and

(b) a permit has been issued by the department after approval of detailed plans and specifications for sanitary precautions;

(4) construct, alter, or extend any public system of water supply, water distribution, sewer, drainage, wastewater, or sewage disposal without first ~~submitting necessary maps, plans, and specifications to the department for its~~ complying with the appropriate provisions for review and approval as required in [section 1];

(5) operate or maintain any public water supply system which exceeds a maximum contaminant level established by the board unless he has been granted or has an application pending for a variance or exemption pursuant to this part."

NEW SECTION. Section 4. Extension of authority. Any existing authority to make rules on the subject of the

provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 5. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 75, chapter 6, part 1, and the provisions of Title 75, chapter 6, part 1, apply to [section 1].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB482, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An Act to allow the Department of Health and Environmental Sciences to delegate review powers to qualified local Departments of Health for small Public Water and Sewer projects; and amending Sections 75-6-102 and 75-6-112 MCA.
ASSUMPTIONS:

1. Since DHES does not charge for review and approval of public water and sewer systems under Title 75, chapter 6, Part 1, there would be no loss of revenue or financial impact.

FISCAL IMPACT: There is no fiscal impact.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

This bill will result in an additional workload on the local Departments of Health that seek delegation of review authority for water and sewage systems not currently reviewed by them. The financial impact cannot be estimated because we do not know how many projects would be reviewed under this provision.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

The bill would modify Sections 75-6-102 and 75-6-112 of existing legislation.

Ray Shackelford 2/6/89
RAY SHACKLEFORD, BUDGET DIRECTOR DATE
OFFICE OF BUDGET AND PROGRAM PLANNING

Vicki Cocchiarella 2/6/89
VICKI COCCHIARELLA, PRIMARY SPONSOR DATE

Fiscal Note for HB482, as introduced

HB 482

APPROVED BY COMM.
ON LOCAL GOVERNMENT

HOUSE BILL NO. 482

INTRODUCED BY COCCHIARELLA, GOULD, STANG

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO DELEGATE REVIEW POWERS TO QUALIFIED LOCAL DEPARTMENTS-OF-HEALTH GOVERNMENTS FOR SMALL PUBLIC WATER AND SEWER PROJECTS; TO ALLOW THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO ADOPT RULES RELATING TO THE DELEGATION OF REVIEW; AND AMENDING SECTIONS SECTION 75-6-102 AND 75-6-112, MCA."

STATEMENT OF INTENT

A statement of intent is required for [this act] because section 1(2) grants rulemaking authority to the board of health and environmental sciences. The board would adopt rules governing the delegation to local governments of review of small public water systems and extensions or alterations of existing public water and sewer systems.

The rules are intended to establish criteria that would be used to determine whether a division of a local government has a review program suitable for delegation of review. The rules would specify the acceptable level of expertise and other factors necessary for local review and, if review authority has been granted, the circumstances under which the authority should be terminated or reviewed.

The rules are also intended to address the size of public water and sewer systems that would be subject to local review.

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

NEW SECTION. Section 1. Submission---and---approval
DELEGATION OF REVIEW of SMALL public water and sewer
construction. (1) A--person--shall--submit--necessary--maps,
plans--and--specifications--to--the--department--for--its--review
and--approval--before--the--person--may--construct--alter--or
extend--any--public--

(a)--water--supply--system;

(b)--water--distribution--system;

(c)--sewer--system;

(d)--drainage--system;

(e)--wastewater--system--or

(f)--sewage--disposal--system.

(2) If a local department--of---health GOVERNMENT
REQUESTS A DELEGATION AND THE APPROPRIATE DIVISION OF THE
LOCAL GOVERNMENT has established satisfactory review programs, the department may delegate to the DIVISION OF
local department-of-health GOVERNMENT review of:

(a) SMALL public water AND SEWER systems that--have
less--than--10--service--connections--to--year-round--residents;
and

~~(b) public--sewage--systems--that--treat--effluent--by
application--below--the--soil--surface--and--that--have--less--than
10--service--connections--to--year--round--residents~~ EXTENSIONS OR
ALTERATIONS OF EXISTING PUBLIC WATER AND SEWER SYSTEMS THAT
INVOLVE 50 OR FEWER CONNECTIONS.

(2) THE BOARD MAY ADOPT RULES REGARDING THE DELEGATION
OF REVIEW AUTHORITY TO DIVISIONS OF LOCAL GOVERNMENT.

Section 2. Section 75-6-102, MCA, is amended to read:

"75-6-102. Definitions. As used in this part, unless
the context clearly indicates otherwise, the following
definitions apply:

(1) "Board" means the board of health and
environmental sciences provided for in 2-15-2104.

(2) "Contamination" means impairment of the quality of
state waters by sewage, industrial wastes, or other wastes
creating a hazard to human health.

(3) "Department" means the department of health and
environmental sciences provided for in Title 2, chapter 15,
part 21.

(4) "Drainage" means rainfall, surface, and subsoil
water.

(5) "Industrial waste" means any waste substance from
the processes of business or industry or from the
development of any natural resource, together with any
sewage that may be present.

(6) "Maximum contaminant level" means the maximum
permissible level of a contaminant in water which is
delivered to any user of a public water supply system.

(7) "Other waste" means garbage, municipal refuse,
decayed wood, sawdust, shavings, bark, lime, sand, ashes,
offal, night soil, oil, grease, tar, heat, chemicals, dead
animals, sediment, wrecked or discarded equipment,
radioactive materials, solid waste, and all other substances
that may pollute state waters.

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association, partnership, municipality, other political
subdivision of the state, or federal agency.

(9) "Pollution" means contamination or other
alteration of the physical, chemical, or biological
properties of any state waters which exceeds that permitted
by Montana water quality standards, including but not
limited to standards relating to change in temperature,
taste, color, turbidity, or odor or the discharge or
introduction of any liquid, gaseous, solid, radioactive, or
other substance into any state water which will or is likely
to create a nuisance or render the waters harmful,
detrimental, or injurious to public health, recreation,
safety, welfare, livestock, wild animals, birds, fish, or
other wildlife. A discharge which is authorized under the
pollution discharge permit rules of the board is not

1 pollution under this chapter.

2 (10) "Public sewage system" means a system of
3 collection, transportation, treatment, or disposal of sewage
4 that is designed to serve or serves 10 or more families or
5 25 or more persons daily for a period of at least 60 days
6 out of the calendar year.

7 ~~(10)~~(11) "Public water supply system" means a system
8 for the provision of water for human consumption from any
9 community well, water hauler for cisterns, water bottling
10 plant, water dispenser, or other water supply that serves 10
11 or more families or 25 or more persons daily or has at least
12 10 service connections at least 60 days out of the calendar
13 year.

14 ~~(11)~~(12) "Safe Drinking Water Act" means 42 U.S.C. 300f
15 and regulations at Title 40, CFR, Parts 141 and 142.

16 ~~(12)~~(13) "Sewage" means water-carried waste products
17 from residences, public buildings, institutions, or other
18 buildings, including discharge from human beings, together
19 with groundwater infiltration and surface water present.

20 ~~(13)~~(14) "State waters" means any body of water,
21 irrigation system, or drainage system, either surface or
22 underground."

23 **Section 3.** ~~Section 75-6-112, MCA, is amended to read:~~
24 ~~"75-6-112. Prohibited acts. A person shall may not:~~
25 ~~(1) discharge sewage, drainage, industrial waste, or~~

1 ~~other wastes that will cause pollution of state waters--used~~
2 ~~by--a--person--for--domestic--use--or--as--a--source--for--a--public~~
3 ~~water--supply--system--or--water--or--ice--company;~~

4 ~~(2)--discharge--sewage,--drainage,--industrial--waste,--or~~
5 ~~other--waste--into--any--state--waters--or--on--the--banks--of--any~~
6 ~~state--waters--or--into--any--abandoned--or--operating--water--well~~
7 ~~unless--the--sewage,--drainage,--industrial--waste,--or--other~~
8 ~~waste--is--treated--as--prescribed--by--the--board;~~

9 ~~(3)--build--or--operate--any--railroad,--logging--road,~~
10 ~~logging--camp,--or--electric--or--manufacturing--plant--of--any--kind~~
11 ~~on--any--watershed--of--a--public--water--supply--system--unless:~~

12 ~~(a)--the--water--supply--is--protected--from--pollution--by~~
13 ~~sanitary--precautions--prescribed--by--the--board,--and~~

14 ~~(b)--a--permit--has--been--issued--by--the--department--after~~
15 ~~approval--of--detailed--plans--and--specifications--for--sanitary~~
16 ~~precautions;~~

17 ~~(4)--construct,--alter,--or--extend--any--public--system--of~~
18 ~~water--supply,--water--distribution,--sewer,--drainage,~~
19 ~~wastewater,--or--sewage--disposal--without--first--submitting~~
20 ~~necessary--maps,--plans,--and--specifications--to--the--department~~
21 ~~for--its--complying--with--the--appropriate--provisions--for--review~~
22 ~~and--approval--as--required--in--(section--1);~~

23 ~~(5)--operate--or--maintain--any--public--water--supply--system~~
24 ~~which--exceeds--a--maximum--contaminant--level--established--by--the~~
25 ~~board--unless--he--has--been--granted--or--has--an--application~~

1 ~~pending--for-a-variance-or-exemption-pursuant-to-this-part."~~

2 NEW SECTION. **Section 3.** Extension of authority. Any
3 existing authority to make rules on the subject of the
4 provisions of [this act] is extended to the provisions of
5 [this act].

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7 [Section 1] is intended to be codified as an integral part
8 of Title 75, chapter 6, part 1, and the provisions of Title
9 75, chapter 6, part 1, apply to [section 1].

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

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(f)--sewage-disposal-system;

(2) If a local department--of---health GOVERNMENT REQUESTS A DELEGATION AND THE APPROPRIATE DIVISION OF THE LOCAL GOVERNMENT has established satisfactory review programs, the department may delegate to the DIVISION OF local department-of-health GOVERNMENT review of:

(a) SMALL public water AND SEWER systems that--have less--than--10--service-connections--to--year-round-residents; and



(b) ~~public--sewage--systems--that--treat--effluent--by application--below--the-soil-surface-and-that-have-less-than 10--service-connections-to-year-round-residents~~ EXTENSIONS OR ALTERATIONS OF EXISTING PUBLIC WATER AND SEWER SYSTEMS THAT INVOLVE 50 OR FEWER CONNECTIONS.

(2) THE BOARD MAY ADOPT RULES REGARDING THE DELEGATION OF REVIEW AUTHORITY TO DIVISIONS OF LOCAL GOVERNMENT.

Section 2. Section 75-6-102, MCA, is amended to read:

"75-6-102. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Board" means the board of health and environmental sciences provided for in 2-15-2104.

(2) "Contamination" means impairment of the quality of state waters by sewage, industrial wastes, or other wastes creating a hazard to human health.

(3) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(4) "Drainage" means rainfall, surface, and subsoil water.

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9 ~~(3) build or operate any railroad, logging road,~~
10 ~~logging camp, or electric or manufacturing plant of any kind~~
11 ~~on any watershed of a public water supply system unless:~~

12 ~~(a) the water supply is protected from pollution by~~
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20 ~~necessary maps, plans, and specifications to the department~~
21 ~~for its complying with the appropriate provisions for review~~
22 ~~and approval as required in section 11;~~

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permissible level of a contaminant in water which is
delivered to any user of a public water supply system.

(7) "Other waste" means garbage, municipal refuse,
decayed wood, sawdust, shavings, bark, lime, sand, ashes,
offal, night soil, oil, grease, tar, heat, chemicals, dead
animals, sediment, wrecked or discarded equipment,
radioactive materials, solid waste, and all other substances
that may pollute state waters.

(8) "Person" means any individual, corporation,
association, partnership, municipality, other political
subdivision of the state, or federal agency.

(9) "Pollution" means contamination or other
alteration of the physical, chemical, or biological
properties of any state waters which exceeds that permitted
by Montana water quality standards, including but not
limited to standards relating to change in temperature,
taste, color, turbidity, or odor or the discharge or
introduction of any liquid, gaseous, solid, radioactive, or
other substance into any state water which will or is likely
to create a nuisance or render the waters harmful,
detrimental, or injurious to public health, recreation,
safety, welfare, livestock, wild animals, birds, fish, or
other wildlife. A discharge which is authorized under the
pollution discharge permit rules of the board is not

1 pollution under this chapter.

2 (10) "Public sewage system" means a system of
3 collection, transportation, treatment, or disposal of sewage
4 that is designed to serve or serves 10 or more families or
5 25 or more persons daily for a period of at least 60 days
6 out of the calendar year.

7 ~~(10)~~(11) "Public water supply system" means a system
8 for the provision of water for human consumption from any
9 community well, water hauler for cisterns, water bottling
10 plant, water dispenser, or other water supply that serves 10
11 or more families or 25 or more persons daily or has at least
12 10 service connections at least 60 days out of the calendar
13 year.

14 ~~(11)~~(12) "Safe Drinking Water Act" means 42 U.S.C. 300f
15 and regulations at Title 40, CFR, Parts 141 and 142.

16 ~~(12)~~(13) "Sewage" means water-carried waste products
17 from residences, public buildings, institutions, or other
18 buildings, including discharge from human beings, together
19 with groundwater infiltration and surface water present.

20 ~~(13)~~(14) "State waters" means any body of water,
21 irrigation system, or drainage system, either surface or
22 underground."

23 ~~Section 3. Section 75-6-112, MCA, is amended to read:~~
24 ~~"75-6-112. Prohibited acts. A person shall not:~~
25 ~~(1) discharge sewage, drainage, industrial waste, or~~

1 ~~other wastes that will cause pollution of state waters used~~
2 ~~by a person for domestic use or as a source for a public~~
3 ~~water supply system or water or ice company;~~

4 ~~(2) discharge sewage, drainage, industrial waste, or~~
5 ~~other waste into any state waters or on the banks of any~~
6 ~~state waters or into any abandoned or operating water well~~
7 ~~unless the sewage, drainage, industrial waste, or other~~
8 ~~waste is treated as prescribed by the board;~~

9 ~~(3) build or operate any railroad, logging road,~~
10 ~~logging camp, or electric or manufacturing plant of any kind~~
11 ~~on any watershed of a public water supply system unless:~~

12 ~~(a) the water supply is protected from pollution by~~
13 ~~sanitary precautions prescribed by the board; and~~

14 ~~(b) a permit has been issued by the department after~~
15 ~~approval of detailed plans and specifications for sanitary~~
16 ~~precautions;~~

17 ~~(4) construct, alter, or extend any public system of~~
18 ~~water supply, water distribution, sewer, drainage,~~
19 ~~wastewater, or sewage disposal without first submitting~~
20 ~~necessary maps, plans, and specifications to the department~~
21 ~~for its complying with the appropriate provisions for review~~
22 ~~and approval as required in section 1;~~

23 ~~(5) operate or maintain any public water supply system~~
24 ~~which exceeds a maximum contaminant level established by the~~
25 ~~board unless he has been granted or has an application~~

1 ~~pending--for-a-variance-or-exemption-pursuant-to-this-part--~~"

2 NEW SECTION. Section 3. Extension of authority. Any
3 existing authority to make rules on the subject of the
4 provisions of [this act] is extended to the provisions of
5 [this act].

6 NEW SECTION. Section 4. Codification instruction.
7 [Section 1] is intended to be codified as an integral part
8 of Title 75, chapter 6, part 1, and the provisions of Title
9 75, chapter 6, part 1, apply to [section 1].

-End-