

INTRODUCED BY

Bob Row

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BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A SCENIC BYWAYS PROGRAM; AUTHORIZING AN ADVISORY COUNCIL FOR THE SCENIC BYWAYS PROGRAM AND DESCRIBING THE COUNCIL'S DUTIES; AUTHORIZING THE HIGHWAY COMMISSION AND THE DEPARTMENT OF TRANSPORTATION TO ADMINISTER THE PROGRAM; AMENDING SECTION 60-1-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because the department of transportation is required in [section 2] to adopt rules to effectuate the scenic byways program. The legislature contemplates that rules promulgated under [section 2] address, at a minimum, the criteria and procedures for establishing a scenic byways program.

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

Section 1. Section 60-1-103, MCA, is amended to read:

"60-1-103. General definitions. Subject to additional definitions contained in this title which that are applicable to specific chapters or sections and unless the context otherwise requires, terms are defined as follows:

(1) "Abandonment" means cessation of use of right-of-way or an ~~lease~~ or cessation of activity ~~thereon~~ on the right-of-way or easement with no intention to reclaim or use again. ~~{Abandonment is sometimes called vacation}.~~

(2) "Bridge" means any bridge constructed by the department, together with all appurtenances, additions, alterations, improvements, and replacements, and the approaches ~~thereto~~ to the bridge, lands used ~~therefor~~ in connection with the bridge, and improvements ~~thereon~~ incidental or integral to the bridge.

(3) "Commission" means the highway commission provided for in 2-15-2502.

(4) "Condemnation" means taking by exercise of the right of eminent domain.

- 1 (5) "Construction" means supervising, inspecting, actual building, and all expenses incidental to
2 the construction or reconstruction of a highway, including locating, surveying, mapping, and costs of
3 right-of-way or other interests in land and elimination of hazards at railway grade crossings.
- 4 (6) "Control of access" means the condition in which the right of owners or occupants of abutting
5 land or other persons to access, light, air, or view in connection with a highway is fully or partially
6 controlled by public authority.
- 7 (7) "County road" means any public highway opened, established, constructed, maintained,
8 abandoned, or discontinued by a county in accordance with Title 7, chapter 14.
- 9 (8) "Department" means the department of transportation provided for in Title 2, chapter 15, part
10 25.
- 11 (9) "Director" means the director of transportation, a position provided for in 2-15-2501.
- 12 (10) "Easement" means a right acquired by public authority to use or control property for a
13 designated purpose.
- 14 (11) "Eminent domain" means the right of the state to take private property for public use.
- 15 (12) "Federal-aid highway" means ~~any~~ a public highway ~~which~~ that is a portion of any of the
16 federal-aid highway systems.
- 17 (13) "Federal-aid highway systems" means all of the systems named ~~hereafter~~ as part of the
18 systems and their urban extensions.
- 19 (14) "Federal-aid interstate system" means that system of public highways selected by the
20 commission in cooperation with adjoining states, subject to the approval of the secretary of commerce, as
21 provided in Title 23, U.S.C.
- 22 (15) "Federal-aid primary system" means that system of connected public highways designated by
23 the commission, subject to the approval of the secretary of commerce, as provided in Title 23, U.S.C.
- 24 (16) "Federal-aid secondary system" means that system of public highways not in the federal-aid
25 primary or interstate systems selected by the commission in cooperation with the boards of county
26 commissioners, subject to the approval of the secretary of commerce, as provided in Title 23, U.S.C.
- 27 (17) "Fee simple" means an absolute estate or ownership in property, including unlimited power of
28 alienation.
- 29 (18) "Highway" includes rights-of-way or other interests in land, embankments, retaining walls,
30 culverts, sluices, drainage structures, bridges, railroad-highway crossings, tunnels, signs, guardrails, and

1 protective structures.

2 (19) "Highway", "road", and "street", whether ~~they~~ the terms appear together or separately or are
3 preceded by the adjective "public", are general terms denoting a public way for purposes of vehicular travel
4 and include the entire area within the right-of-way.

5 (20) "Highway authority" means the entity at any level of government authorized by law to
6 construct and maintain highways.

7 (21) "Maintenance" means the preservation of the entire highway, including surface, shoulders,
8 roadsides, structures, and ~~such~~ traffic-control devices as that are necessary for ~~its~~ the safe and efficient
9 ~~utilization~~ use of the highway.

10 (22) "Public highways" means all streets, roads, highways, bridges, and related structures ~~which~~
11 ~~have been or shall be~~:

12 (a) built and maintained with appropriated funds of the United States or the state or any political
13 subdivision ~~thereof~~ of the state;

14 (b) dedicated to public use;

15 (c) acquired by eminent domain; or

16 (d) acquired by adverse use by the public, jurisdiction having been assumed by the state or any
17 political subdivision ~~thereof~~ of the state.

18 (23) "Right-of-way" is a general term denoting land, property, or any interest ~~therein~~ in land or
19 property, usually in a strip, acquired for or devoted to highway purposes.

20 (24) "Scenic byway" means a public highway designated by the commission as enhancing
21 Montana's scenic, cultural, historic, recreational, or educational assets and as promoting tourism.

22 (25) "State highway" means any public highway planned, laid out, altered, constructed,
23 reconstructed, improved, repaired, maintained, or abandoned by the department."
24

25 **NEW SECTION. Section 2. Scenic byways program -- rulemaking authority.** (1) There is a scenic
26 byways program. The commission may designate roads to be included as part of the program and may add
27 or delete roads from the program. The commission shall consult with appropriate local government
28 authorities when considering or designating roads to be included in the program.

29 (2) The commission may delegate to the department the responsibility for establishing criteria for
30 eligibility for inclusion in the scenic byways program. The department shall adopt rules to effectuate the

1 purposes of the program.

2 (3) Notwithstanding the provisions of 2-15-122, the commission may appoint an advisory council.
3 If appointed, the advisory council shall report to the department. The purpose of the advisory council is
4 to assist in identifying and recommending roads that should be included or deleted from the scenic byways
5 program. The advisory council may not comprise more than 14 members and must include a representative
6 or designee of the following entities:

7 (a) the department of commerce;

8 (b) the Montana historical society;

9 (c) the department;

10 (d) the department of fish, wildlife, and parks;

11 (e) the forest service of the U.S. department of agriculture;

12 (f) the federal highway administration of the U.S. department of transportation;

13 (g) the bureau of land management of the U.S. department of the interior;

14 (h) the bureau of Indian affairs of the U.S. department of the interior; and

15 (i) the national park service of the U.S. department of the interior.

16

17 **NEW SECTION. Section 3. Codification instruction.** [Section 2] is intended to be codified as an
18 integral part of Title 60, chapter 2, part 2, and the provisions of Title 60, chapter 2, part 2, apply to
19 [section 2].

20

21 **NEW SECTION. Section 4. Effective date.** [This act] is effective on passage and approval.

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-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0183, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act establishing a scenic byways program; authorizing an advisory council for the scenic byways program and describing the council's duties; authorizing the Highway Commission and the Department of Transportation to administer the program.

ASSUMPTIONS:

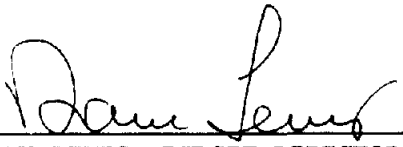
1. The department was funded for 2.00 FTE and approximately \$235,000 in the 1995 biennium for administration of a scenic byways program.
2. Current federal grant categories (Community Transportation Enhancement Program-CTEP and MDT Enhancement funds) would be used for future capital expenses.
3. The department would actively pursue public-private partnerships for funding improvements.

FISCAL IMPACT:

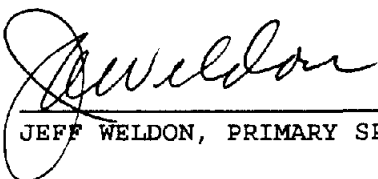
No additional funding over Executive Budget present law base would be required.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

If improvements are funded with CTEP funds, a 13% non-state match would be necessary.

 1-23-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1/23/95

JEFF WELDON, PRIMARY SPONSOR DATE

Fiscal Note for SB0183, as introduced

SB 183