

SENATE BILL NO. 227

INTRODUCED BY

Weldon Ream *HARP Beel*
McCluskey *Tom Beckett* *John Bauer* *Deherty*

A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE AREA IN WHICH A MUNICIPALITY MAY ENFORCE ITS BUILDING CODE FROM 4 1/2 MILES TO 1 MILE; CLARIFYING THAT A COUNTY BUILDING CODE SUPERSEDES A MUNICIPAL BUILDING CODE OUTSIDE THE MUNICIPALITY'S LIMITS; CLARIFYING A PERSON'S RIGHT TO APPEAL THE APPLICATION OF A PROVISION OF A MUNICIPAL BUILDING CODE OR OF THE STATE BUILDING CODE; AND AMENDING SECTIONS 50-60-101 AND 50-60-303, MCA."

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

Section 1. Section 50-60-101, MCA, is amended to read:

"50-60-101. Definitions. As used in parts 1 through 4 and part 7 of this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Building" means a combination of any materials, whether mobile, portable, or fixed, to form a structure and the related facilities for the use or occupancy by persons or property. The word "building" shall must be construed as though followed by the words "or part or parts ~~thereof~~ of the building".

(2) (a) "Building regulations" means any law, rule, resolution, regulation, ordinance, or code, general or special, or compilation thereof enacted or adopted by the state or any municipality, including departments, boards, bureaus, commissions, or other agencies of the state or a municipality, relating to the design, construction, reconstruction, alteration, conversion, repair, inspection, or use of buildings and installation of equipment in buildings.

(b) The term does not include zoning ordinances.

(3) "Construction" means the original construction and equipment of buildings and requirements or standards relating to or affecting materials used, including provisions for safety and sanitary conditions.

(4) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

(5) "Equipment" means plumbing, heating, electrical, ventilating, air conditioning, and refrigerating equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

(6) (a) "Factory-built building" means a factory-assembled structure or structures equipped with the necessary service connections but not made so as to be readily movable as a unit or units and designed

1 to be used with a permanent foundation.

2 (b) "Factory-built building" does not include manufactured housing constructed after June 15, 1976,
3 under the HUD, National Mobile Home Construction and Safety Act of 1974.

4 (7) "Local building department" means the agency or agencies of any municipality charged with
5 the administration, supervision, or enforcement of building regulations, approval of plans, inspection of
6 buildings, or the issuance of permits, licenses, certificates, and similar documents prescribed or required
7 by state or local building regulations.

8 (8) "Local legislative body" means the council or commission charged with governing the
9 municipality.

10 (9) "Municipality" means any incorporated city or town and its jurisdictional area ~~as defined by~~
11 ~~subsection (10) of this section.~~

12 (10) (a) "Municipal jurisdictional area" means the area within the limits of an incorporated
13 municipality unless the area is extended at the written request of a municipality.

14 (b) ~~Upon~~ Subject to subsection (10)(c), upon request, the department may approve extension of
15 the jurisdictional area to include:

16 (i) all or part of the area within ~~4 1/2 miles~~ 1 mile of the corporate limits of a municipality;

17 (ii) all of any platted subdivision ~~which~~ that is partially within ~~4 1/2 miles~~ 1 mile of the corporate
18 limits of a municipality; and

19 (iii) all of any zoning district adopted pursuant to Title 76, chapter 2, part 1 or 2, ~~which~~ that is
20 partially within ~~4 1/2 miles~~ 1 mile of the corporate limits of a municipality.

21 (c) The jurisdictional area may not be extended in a county that has adopted a building code, and
22 if a county adopts a building code subsequent to an extension of a municipal jurisdictional area, the
23 county's code supersedes the municipal code.

24 ~~(d)~~ (d) Distances ~~shall~~ must be measured in a straight line in a horizontal plane.

25 (11) "Owner" means the owner or owners of the premises or lesser estate, a mortgagee or vendee
26 in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation
27 in control of a building.

28 (12) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living
29 quarters for recreational, camping, or travel use, which either has its own mode of power or is mounted
30 on or towed by another vehicle, including but not limited to a:

- 1 (a) travel trailer;
2 (b) camping trailer;
3 (c) truck camper; or
4 (d) motor home.

5 (13) "State agency" means any state officer, department, board, bureau, commission, or other
6 agency of this state.

7 (14) "State building code" means the state building code provided for in 50-60-203 or any portion
8 of the code of limited application and any of its modifications or amendments."
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10 **Section 2.** Section 50-60-303, MCA, is amended to read:

11 **"50-60-303. Municipal appeal procedure.** (1) If a municipality adopts a municipal building code,
12 it shall also establish an appeal procedure by ordinance ~~which~~ that is acceptable to the department.

13 (2) If a municipality does not adopt a code, appeals on the application of the state building code
14 within the municipal jurisdictional area ~~shall~~ must be made to the department.

15 (3) A person with an interest in a property may appeal the application of a provision of a municipal
16 building code or of the state building code to the property."

17 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0227, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

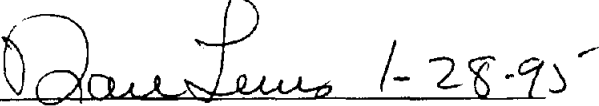
An act reducing the area in which a municipality may enforce its building code from 4 ½ miles to 1 mile; clarifying that a county building code supersedes a municipal building code outside the municipality's limits; clarifying a person's right to appeal the application of a provision of a municipal building code or of the state building code.

ASSUMPTIONS:

1. Reduction of the extended jurisdictional areas for the cities of Billings, Bozeman, Kalispell, and Missoula will result in 750-800 additional electrical permits and 200 additional building permits to be issued and inspected annually by the Building Codes Bureau, Department of Commerce.
2. These additional inspections will generate about \$190,000 over the 1997 biennium.
3. These additional responsibilities can be absorbed and supported within the Building Codes Bureau budget as contained in the Executive Budget recommendation.

FISCAL IMPACT:

There will be no additional fiscal impact to the Building Codes Bureau, Department of Commerce.


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


JEFF WELDON, PRIMARY SPONSOR DATE

Fiscal Note for SB0227, as introduced

SB 227

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0227, third reading

DESCRIPTION OF PROPOSED LEGISLATION:

An act reducing the area in which a municipality may enforce its building code from 4 1/4 miles to 1/8 mile; clarifying that a county building code supersedes a municipal building code outside the municipality's limits; clarifying a person's right to appeal the application of a provision of a municipal building code or of the state building code; and providing an immediate effective date and an applicability date.

ASSUMPTIONS:

1. Reduction of the extended jurisdictional areas will impact the cities of Billings, Bozeman, Columbia Falls, Deer Lodge, Fort Benton, Kalispell, Miles City, Missoula, and Whitefish.
2. As a result of the changes in the jurisdictional areas, there will be 800 additional electrical permits and 260 additional building permits issued annually by the Building Codes Bureau, Department of Commerce.
3. The Building Codes Bureau in direct relation to the increased permits will be expected to perform 2,400 additional electrical inspections and 1,300 building inspections annually.
4. An additional 2.00 FTE each year of the biennium will be necessary to implement the proposed legislation, plus operating expenses, and two vehicles in FY96.
6. Revenues generated by the increased permitting activity will offset the increased personal services and operating costs.

FISCAL IMPACT:

	<u>FY96</u> <u>Difference</u>	<u>FY97</u> <u>Difference</u>
<u>Expenditures:</u>		
FTE	2.00	2.00
Personal Services	62,728	62,950
Operating Expenses	17,220	17,232
Equipment	<u>25,640</u>	<u>0</u>
Total	105,588	80,182
<u>Funding:</u>		
Building Codes SSR (02)	105,588	80,182
<u>Revenue:</u>		
Construction Permit Fees	105,588	80,182
<u>Net Impact:</u>	0	0

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Local jurisdiction building code enforcement covers single family dwellings through four-plexes and such structures are exempt from state building codes enforcement. Consequently, this legislation will not impact the local jurisdiction enforcement activities on single family dwellings through four-plexes. There will be reduced revenues and related expenditures to the impacted cities but the amounts cannot be determined at this time.

Dave Lewis 3-4-95

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

Jeff Weldon 3-11-95

 JEFF WELDON, PRIMARY SPONSOR DATE

APPROVED BY COM ON
LOCAL GOVERNMENT

1 SENATE BILL NO. 227

2 INTRODUCED BY WELDON, REAM, HARP, BECK, MCCULLOCH, HALLIGAN, TUSS, BURNETT,
3 SQUIRES, BAER, DOHERTY
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5 A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE AREA IN WHICH A MUNICIPALITY MAY
6 ENFORCE ITS BUILDING CODE FROM 4 1/2 MILES TO 1 MILE; CLARIFYING THAT A COUNTY BUILDING
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8 A PERSON'S RIGHT TO APPEAL THE APPLICATION OF A PROVISION OF A MUNICIPAL BUILDING CODE
9 OR OF THE STATE BUILDING CODE; ~~AND~~ AMENDING SECTIONS 50-60-101 AND 50-60-303, MCA; AND
10 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."
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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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16 context requires otherwise, the following definitions apply:

17 (1) "Building" means a combination of any materials, whether mobile, portable, or fixed, to form
18 a structure and the related facilities for the use or occupancy by persons or property. The word "building"
19 ~~shall~~ must be construed as though followed by the words "or part or parts ~~thereof~~ of the building".

20 (2) (a) "Building regulations" means any law, rule, resolution, regulation, ordinance, or code,
21 general or special, or compilation thereof enacted or adopted by the state or any municipality, including
22 departments, boards, bureaus, commissions, or other agencies of the state or a municipality, relating to the
23 design, construction, reconstruction, alteration, conversion, repair, inspection, or use of buildings and
24 installation of equipment in buildings.

25 (b) The term does not include zoning ordinances.

26 (3) "Construction" means the original construction and equipment of buildings and requirements
27 or standards relating to or affecting materials used, including provisions for safety and sanitary conditions.

28 (4) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

29 (5) "Equipment" means plumbing, heating, electrical, ventilating, air conditioning, and refrigerating
30 equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

1 (6) (a) "Factory-built building" means a factory-assembled structure or structures equipped with
 2 the necessary service connections but not made so as to be readily movable as a unit or units and designed
 3 to be used with a permanent foundation.

4 (b) "~~Factory-built building~~" does not include manufactured housing constructed after June 15,
 5 1976, under the HUD, National Mobile Home Construction and Safety Act of 1974.

6 (7) "Local building department" means the agency or agencies of any municipality charged with
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10 (8) "Local legislative body" means the council or commission charged with governing the
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12 (9) "Municipality" means any incorporated city or town and its jurisdictional area ~~as defined by~~
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14 (10) (a) "Municipal jurisdictional area" means the area within the limits of an incorporated
 15 municipality unless the area is extended at the written request of a municipality.

16 (b) ~~Upon~~ Subject to subsection (10)(c), upon request, the department may approve extension of
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21 (iii) all of any zoning district adopted pursuant to Title 76, chapter 2, part 1 or 2, ~~which that~~ is
 22 partially within ~~4 1/2 miles~~ 1 mile of the corporate limits of a municipality.

23 (c) The jurisdictional area may not be extended in a county that has adopted a building code, and
 24 if a county adopts a building code subsequent to an extension of a municipal jurisdictional area, the
 25 JURISDICTION OF THE county's code supersedes AND REPLACES THE JURISDICTION OF the municipal
 26 code IN ALL AREAS OUTSIDE THE MUNICIPALITY'S CORPORATE LIMITS.

27 ~~(e)(d)~~ Distances ~~shall~~ must be measured in a straight line in a horizontal plane.

28 (11) "Owner" means the owner or owners of the premises or lesser estate, a mortgagee or vendee
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18 (3) A person with an interest in a property may appeal the application of a provision of a municipal
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21 NEW SECTION. SECTION 3. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND
 22 APPROVAL.

24 NEW SECTION. SECTION 4. APPLICABILITY. [THIS ACT] APPLIES TO APPLICATIONS
 25 SUBMITTED OR PERMITS GRANTED AS PROVIDED IN 50-60-106 ON OR AFTER [THE EFFECTIVE DATE
 26 OF THIS ACT].

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