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SENATE BILL NO. 282

INTRODUCED BY

Burnett *Ray* *W. Lee*

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN INSTRUMENT DESCRIBING A TRANSFER OF LAND THAT IS SUBJECT TO THE MONTANA SUBDIVISION AND PLATTING ACT TO REFERENCE A SURVEY OR PLAT WHEN LAND IS BEING ACQUIRED FOR STATE HIGHWAYS; REQUIRING THE OWNER OF THE REMAINDER TO BE GIVEN A RECORDABLE INSTRUMENT DESCRIBING THE OWNER'S PROPERTY; AND REPEALING SECTION 76-3-209, MCA."

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

NEW SECTION. Section 1. Highway surveys -- description of parcel by reference to survey or plat -- survey of remainder required. (1) When, subject to this chapter, land is acquired for a state highway, the instrument of transfer must describe the parcel acquired by reference to a survey or plat that meets the requirements of this chapter and not by reference to the center line of the proposed highway.

(2) Upon transfer of title of land referred to in subsection (1), the department of transportation shall provide to the person who owns the land from which the acquired land was transferred a recordable instrument that meets the requirements of this chapter and that describes the remaining land from which the acquired land was transferred.

NEW SECTION. Section 2. Repealer. Section 76-3-209, MCA, is repealed.

NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 76, chapter 3, and the provisions of Title 76, chapter 3, apply to [section 1].

NEW SECTION. Section 4. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0282, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring an instrument describing a transfer of land that is subject to the Montana Subdivision and Platting Act to reference a survey or plat when land is being acquired for state highways; requiring the owner of the remainder to be given a recordable instrument describing the owner's property; and repealing section 76-3-209, MCA.

ASSUMPTIONS:

1. Montana Department of Transportation (MDT) must comply with all provisions of the Survey and Platting Act. SB282 will require a survey and plat for each parcel of right of way complying with Survey and Platting Act.
2. Additional time will be required to submit for local subdivision review, estimated at a minimum of 30 to 45 days. If considered major subdivision, time will increase to 60 day minimum.
3. Subdivision review creates an additional opportunity for protest of planned construction projects.
4. Provisions of the bill will require two additional contacts with each land owner for signature on plat and application for subdivision and to sign deed (3.50 FTE grade 13).
5. Contract survey and plat preparation cost \$2,500 per parcel. Subdivision application fee \$200 per parcel. Subdivision review fees and tests \$640 per parcel.
6. MDT will acquire a minimum of 700 parcels of right of way each year.
7. Right-of-way acquisition costs are funded at an average federal/state match of 87:13. No additional federal funds would be available. Expenditures for subdivision and platting act compliance would reduce funds available for other purposes.

FISCAL IMPACT:

<u>Expenditures:</u>	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
FTE	3.50	3.50
Personal Services	101,661	102,015
Operating Expenses	<u>1,913,000</u>	<u>1,913,000</u>
Total	\$2,014,661	\$2,015,015

Funding:

Highway Special Revenues (02)	261,906	261,952
Federal Highway Revenues (03)	<u>1,752,755</u>	<u>1,753,063</u>
Total	\$2,014,661	\$2,015,015

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Potential to slow construction projects from being built by 12-18 months.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Counties would incur costs associated with subdivision review. Application and review fees would be collected from the Department of Transportation.

David Lewis 2-7-95
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

James H. Burnett 2-7-95
 JIM BURNETT, PRIMARY SPONSOR DATE

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0282, third reading

DESCRIPTION OF PROPOSED LEGISLATION:

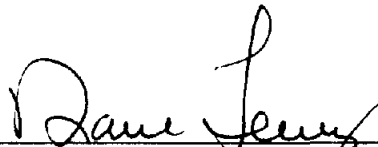
An act requiring the Department of Transportation to establish the property boundaries of land that is subject to the Montana Subdivision and Platting Act when land is being acquired for state highways.

ASSUMPTIONS:

1. The bill would require a survey to reestablish property corners of tracts of land created by the certificate of survey or recorded subdivision.
2. The Department of Transportation acquires a minimum of 700 parcels of right of way each year. The requirement to establish property boundaries would apply to approximately 300 of these parcels.
3. Contract survey cost would average \$1,500 per parcel. Right-of-way acquisition costs are funded at an average federal/state match of 87:13.

FISCAL IMPACT:

<u>Expenditures:</u>	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Operating Expenses	\$450,000	\$450,000
<u>Funding:</u>		
Highway Special Revenues (02)	58,500	58,500
Federal Highway Revenues (03)	<u>391,500</u>	<u>391,500</u>
Total	\$450,000	\$450,000

 2-28-95
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 3-1-15
JIM BURNETT, PRIMARY SPONSOR DATE

Fiscal Note for SB0282, third reading

SB 282 #2

APPROVED BY COM ON
LOCAL GOVERNMENT

SENATE BILL NO. 282

INTRODUCED BY BURNETT, STORY, MCGEE

A BILL FOR AN ACT ENTITLED: "~~AN ACT REQUIRING AN INSTRUMENT DESCRIBING A TRANSFER THE~~
~~DEPARTMENT OF TRANSPORTATION TO ESTABLISH THE PROPERTY BOUNDARIES OF LAND THAT IS~~
~~SUBJECT TO THE MONTANA SUBDIVISION AND PLATTING ACT TO REFERENCE A SURVEY OR PLAT~~
~~WHEN LAND IS BEING ACQUIRED FOR STATE HIGHWAYS; REQUIRING THE OWNER OF THE REMAINDER~~
~~TO BE GIVEN A RECORDABLE INSTRUMENT DESCRIBING THE OWNER'S PROPERTY; AND REPEALING~~
~~AND AMENDING SECTION 76-3-209, MCA."~~

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

~~**NEW SECTION. Section 1. Highway surveys—description of parcel by reference to survey or plat**~~
~~**—survey of remainder required.** (1) When, subject to this chapter, land is acquired for a state highway,~~
~~the instrument of transfer must describe the parcel acquired by reference to a survey or plat that meets the~~
~~requirements of this chapter and not by reference to the center line of the proposed highway.~~

~~(2) Upon transfer of title of land referred to in subsection (1), the department of transportation shall~~
~~provide to the person who owns the land from which the acquired land was transferred a recordable~~
~~instrument that meets the requirements of this chapter and that describes the remaining land from which~~
~~the acquired land was transferred.~~

~~**NEW SECTION. Section 2. Repealer.** Section 76-3-209, MCA, is repealed.~~

~~**NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an~~
~~integral part of Title 76, chapter 3, and the provisions of Title 76, chapter 3, apply to [section 1].~~

SECTION 1. SECTION 76-3-209, MCA, IS AMENDED TO READ:

"76-3-209. Exemption from surveying and platting requirements for lands acquired for state
highways. Instruments of transfer of land ~~which~~ that is acquired for state highways may refer by parcel
and project number to state highway plans ~~which~~ that have been recorded in compliance with 60-2-209

1 and are exempted from the surveying and platting requirements of this chapter. If ~~such the~~ parcels are not
2 shown on highway plans of record, instruments of transfer of ~~such the~~ parcels ~~shall~~ must be accompanied
3 by and refer to appropriate certificates of survey and plats when presented for recording. However, the
4 department of transportation shall establish by survey the property boundaries of the parcel being acquired
5 if the private property was previously subdivided and subject to the provisions of this chapter."

6

7 NEW SECTION. Section 2. Saving clause. [This act] does not affect rights and duties that
8 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
9 act].

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-END-

SENATE BILL NO. 282

INTRODUCED BY BURNETT, STORY, MCGEE

A BILL FOR AN ACT ENTITLED: "~~AN ACT REQUIRING AN INSTRUMENT DESCRIBING A TRANSFER THE DEPARTMENT OF TRANSPORTATION TO ESTABLISH THE PROPERTY BOUNDARIES OF LAND THAT IS SUBJECT TO THE MONTANA SUBDIVISION AND PLATTING ACT TO REFERENCE A SURVEY OR PLAT WHEN LAND IS BEING ACQUIRED FOR STATE HIGHWAYS; REQUIRING THE OWNER OF THE REMAINDER TO BE GIVEN A RECORDABLE INSTRUMENT DESCRIBING THE OWNER'S PROPERTY; AND REPEALING AND AMENDING SECTION 76-3-209, MCA.~~"

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

~~**NEW SECTION. Section 1. Highway surveys—description of parcel by reference to survey or plat—survey of remainder required.** (1) When, subject to this chapter, land is acquired for a state highway, the instrument of transfer must describe the parcel acquired by reference to a survey or plat that meets the requirements of this chapter and not by reference to the center line of the proposed highway.~~

~~(2) Upon transfer of title of land referred to in subsection (1), the department of transportation shall provide to the person who owns the land from which the acquired land was transferred a recordable instrument that meets the requirements of this chapter and that describes the remaining land from which the acquired land was transferred.~~

~~**NEW SECTION. Section 2. Repealer.** Section 76-3-209, MCA, is repealed.~~

~~**NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 76, chapter 3, and the provisions of Title 76, chapter 3, apply to [section 1].~~

SECTION 1. SECTION 76-3-209, MCA, IS AMENDED TO READ:

"76-3-209. Exemption from surveying and platting requirements for lands acquired for state highways. Instruments of transfer of land ~~which~~ that is acquired for state highways may refer by parcel and project number to state highway plans ~~which~~ that have been recorded in compliance with 60-2-209

1 and are exempted from the surveying and platting requirements of this chapter. If ~~such~~ the parcels are not
2 shown on highway plans of record, instruments of transfer of ~~such~~ the parcels ~~shall~~ must be accompanied
3 by and refer to appropriate certificates of survey and plats when presented for recording. However, the
4 department of transportation shall establish by survey the property boundaries of the parcel being acquired
5 if the private property was previously subdivided and subject to the provisions of this chapter."

6

7 **NEW SECTION.** **Section 2. Saving clause.** [This act] does not affect rights and duties that
8 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
9 act].

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-END-