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SENATE BILL NO. 399

INTRODUCED BY

*Burnett*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE METHOD OF CREATING A COUNTY PLANNING BOARD TO REQUIRE A VOTE OF THE ELECTORS; PROVIDING FOR THE REPEAL OF THE RESOLUTION CREATING THE COUNTY PLANNING BOARD; REQUIRING A MASTER PLAN TO BE SUBMITTED TO A VOTE OF THE ELECTORS; REQUIRING USE OF EMINENT DOMAIN PROCEEDINGS FOR PROPERTY INTERESTS REDUCED AS A RESULT OF THE APPLICATION OF THE MASTER PLAN; AND AMENDING SECTIONS 76-1-104, 76-1-601, 76-1-604, AND 76-1-605, MCA."

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

**Section 1.** Section 76-1-104, MCA, is amended to read:

**"76-1-104. Procedure to establish county planning board -- protest.** (1) Before a county planning board may be created, the board of county commissioners shall by resolution give public notice of ~~their~~ its intent to create ~~such a~~ such a planning board and of a public hearing ~~thereon~~ on the creation of a planning board by publication of notice of time and place of hearing on ~~such the~~ the resolution in each newspaper published in the county not less than 15 or more than 30 days prior to the date of hearing.

(2) A resolution creating a county planning board ~~shall is not be adopted by the board of county commissioners if disapproved in writing, not later than 60 days after such hearing,~~ effective unless submitted to and approved by a majority of the qualified electors of the county residing outside the limits of the jurisdictional area of an existing city-county planning board established pursuant to 76-1-504 through 76-1-507 and outside the incorporated limits of each city and town in the county at the next primary or general election or at a special election. The provisions of Title 7, chapter 5, part 1, except as otherwise provided in this section, apply to the election.

(3) The qualified electors of the area provided for in subsection (2) may by initiative pursuant to the provisions of 7-5-131 through 7-5-137 repeal the resolution creating a county planning board."

**Section 2.** Section 76-1-601, MCA, is amended to read:

**"76-1-601. Master plan -- contents.** The planning board shall prepare and propose a master plan

- 1 for the jurisdictional area. The plan may propose ordinances or resolutions for possible adoption by the  
2 appropriate governing body. The plan may include:
- 3 (1) careful and comprehensive surveys and studies of existing conditions and the probable future  
4 growth of the city and its environs or of the county;
  - 5 (2) maps, plats, charts, and descriptive material presenting basic information, locations, extent,  
6 and character of any of the following:
    - 7 (a) history, population, and physical site conditions;
    - 8 (b) land use, including the height, area, bulk, location, and use of private and public structures and  
9 premises;
    - 10 (c) population densities;
    - 11 (d) community centers and neighborhood units;
    - 12 (e) blighted and slum areas;
    - 13 (f) streets and highways, including bridges, viaducts, subways, parkways, alleys, and other public  
14 ways and places;
    - 15 (g) sewers, sanitation, and drainage, including handling, treatment, and disposal of excess drainage  
16 waters, sewage, garbage, refuse, and other wastes;
    - 17 (h) flood control and prevention;
    - 18 (i) public and private utilities, including water, light, heat, communication, and other services;
    - 19 (j) transportation, including rail, bus, truck, air, and water transport and their terminal facilities;
    - 20 (k) local mass transit, including motor and trolley bus; street, elevated, or underground railways;  
21 and taxicabs;
    - 22 (l) parks and recreation, including parks, playgrounds, reservations, forests, wildlife refuges, and  
23 other public grounds, spaces, and facilities of a recreational nature;
    - 24 (m) public buildings and institutions, including governmental administration and service buildings,  
25 hospitals, infirmaries, clinics, penal and correctional institutions, and other civic and social service buildings;
    - 26 (n) education, including location and extent of schools, colleges, and universities;
    - 27 (o) land utilization, including areas for manufacturing and industrial uses, concentration of  
28 wholesale business, retail business, and other commercial uses, residential uses, and areas for mixed uses;
    - 29 (p) conservation of water, soil, agricultural, and mineral resources;
    - 30 ~~(q) any other factors which are a part of the physical, economic, or social situation within the city~~

1 ~~of county;~~

2 (3) reports, maps, charts, and recommendations setting forth plans for the development,  
3 redevelopment, improvement, extension, and revision of the subjects and physical situations of the city or  
4 county set out in subsection (2) so as to substantially accomplish the object of this chapter as set out in  
5 76-1-101 and 76-1-102;

6 (4) a long-range development program of public works' projects, based on the recommended plans  
7 of the planning board, for the purpose of eliminating unplanned, unsightly, untimely, and extravagant  
8 projects and with a view to stabilizing industry and employment and the keeping of such program  
9 up-to-date for all separate taxing units within the city or county, respectively, for the purpose of assuring  
10 efficient and economic use of public funds;

11 (5) recommendations setting forth the development, improvement, and extension of areas, if any,  
12 to be set aside for use as trailer courts and sites for mobile homes."

13

14 **Section 3.** Section 76-1-604, MCA, is amended to read:

15 **"76-1-604. Adoption, revision, or rejection of master plan.** (1) The governing bodies shall adopt  
16 a resolution of intention to adopt, revise, or reject such proposed plan or any of its parts.

17 (2) If the governing bodies adopt a resolution of intention to adopt the proposed plan or any of its  
18 parts, they ~~may, in their discretion,~~ shall submit to the qualified electors of the jurisdictional area included  
19 within the proposed plan at the next primary or general election or at a special election the referendum  
20 question of whether or not the plan should be adopted. The provisions of Title 7, chapter 5, part 1, except  
21 as in this section otherwise provided, shall apply to such referendum election.

22 (3) The governing bodies may adopt, revise, or repeal a master plan under this section.

23 (4) The qualified electors of the jurisdictional area included within the master plan may by initiative  
24 or referendum, as provided in 7-5-131 through 7-5-137, adopt, revise, or repeal a master plan under this  
25 section."

26

27 **Section 4.** Section 76-1-605, MCA, is amended to read:

28 **"76-1-605. Use of adopted master plan.** (1) After adoption of the master plan, the city council, the  
29 board of county commissioners, or other governing body within the territorial jurisdiction of the board ~~shall~~  
30 must be guided by and shall give consideration to the general policy and pattern of development set out

1 in the master plan in the:

2 ~~(1)~~(a) authorization, construction, alteration, or abandonment of public ways, public places, public  
3 structures, or public utilities;

4 ~~(2)~~(b) authorization, acceptance, or construction of water mains, sewers, connections, facilities,  
5 or utilities;

6 ~~(3)~~(c) adoption of subdivision controls;

7 ~~(4)~~(d) adoption of zoning ordinances or resolutions.

8 (2) If the implementation of the master plan, as required by subsection (1), reduces a person's  
9 interest in the value of property subject to the plan, the city council, board of county commissioners, or  
10 other governing body within the territorial jurisdiction of the board shall compensate the owner of the  
11 interest by instituting proceedings under Title 70, chapter 30, and shall pay for the interest from the general  
12 revenue of the city, county, or other governing body."

13 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0399, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the method of creating a county planning board to require a vote of the electors; providing for the repeal of the resolution creating the county planning board; requiring a master plan to be submitted to a vote of the electors; and requiring use of eminent domain proceedings for property interests reduced as a result of the application of the master plan.

ASSUMPTIONS:

1. The proposed legislation would become effective October 1, 1995.
2. As directed by state law, the Department of Commerce (DOC) provides advisory technical assistance to counties, municipalities, business persons, developers, land surveyors, and citizens, to help them understand and comply with planning and development statutes (including subdivision statutes).
3. Estimated DOC costs are based upon actual costs incurred by DOC in FY94 and FY95 when the subdivision law was substantially changed by the 1993 Legislature. DOC estimated costs for this bill include updating six advisory educational publications on local legal and technical methods and procedures and conducting eight educational workshops across the state.
4. The bill will require a local government proposing to undertake any of the activities enumerated in subsection (1) of 76-1-605, MCA, to expend local tax revenues for an appraisal of each parcel of land, the value of which might be affected by the proposed action.

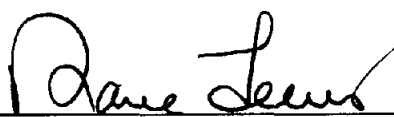
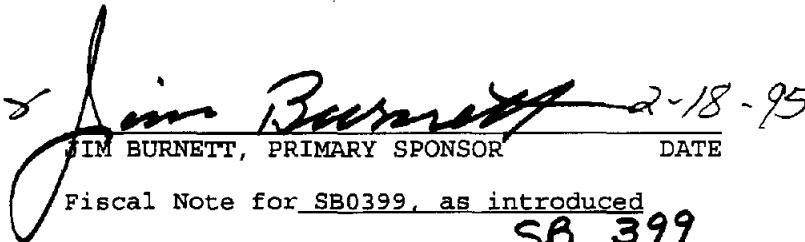
FISCAL IMPACT:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>		
Operating Expenses	30,791	30,791
<u>Funding:</u>		
General Fund (01)	30,791	30,791

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

1. This legislation will require a local government proposing to undertake any of the activities enumerated in subsection (1) of 76-1-605, MCA, to allocate local tax revenues for an appraisal of each parcel of land which could be affected by the proposed action.
2. The cost involved in doing these appraisals is impossible to quantify because it will vary widely with the nature of the proposal.

(continued on page 2)

 2-18-95     
  2-18-95  
 DAVID LEWIS, BUDGET DIRECTOR      DATE      JIM BURNETT, PRIMARY SPONSOR      DATE  
 Office of Budget and Program Planning  
 Fiscal Note for SB0399, as introduced  
**SB 399**

3. While some activities are discretionary, the adoption of subdivision regulations are required by statute and will necessitate an appraisal of every parcel of land within the city or county to determine its value with and without the implementation of the regulations.
4. If the appraisal process indicates that the proposed action will, in fact, decrease the value of any property, the bill will require the governing body to incur the additional cost attendant to the condemnation process.

TECHNICAL NOTES:

1. It is unclear whether the phrase "interest in the property" is intended to mean the fair market value of the property or refers to that interest held by two or more persons or entities, e.g. lienholder, lessees, title holders, mortgagors, easement holders. If the later is true then the cost of appraisals will increase to determine the effect on each of the interest holders.
2. Sections 76-2-101 through 76-2-112, MCA, enable citizens to petition counties to create special zoning districts. The bill will require county governments to compensate property owners within these special districts for the impact which the requested zoning will have on private property.