

SENATE BILL NO. 364

INTRODUCED BY J. COBB

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING CONSERVATION DISTRICTS TO MAKE EXEMPTIONS BY RULE TO PROJECT REVIEW UNDER THE STREAMBED AND LAND PRESERVATION LAWS; AND AMENDING SECTION 75-7-111, MCA."

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

NEW SECTION. **Section 1. Exemptions -- procedure.** (1) The provisions of this part do not apply

if a district adopts, after notice and public hearing, rules:

- (a) exempting persons who have taken and successfully completed courses approved by the district that instruct persons on project development in streams to ensure project development in compliance with 75-7-102;
- (b) exempting persons who have established a record of successful compliance with this part; or
- (c) exempting projects that have been identified as exclusions under the provisions of 75-7-117(2).

(2) A person constructing a project that is exempt under subsection (1) shall notify the supervisors in writing 15 days prior to taking an action as a result of an exemption. The notice must contain the following information:

- (a) the location of the proposed action;
- (b) a general description of the action to be taken;
- (c) the date on which the action is to be taken; and
- (d) an explanation of the exemption claimed.

(3) The exempt person shall notify the supervisors within 15 days of taking the action that the project is completed.

(4) If the supervisors determine that the action taken meets the definition of a project, the supervisors shall send one copy of the notice, within 5 working days of its receipt, to the department.

(5) A team, called together as described in 75-7-112(2), shall make an onsite inspection within 20 days of receipt of the notice.

(6) Each member of the team shall recommend in writing, within 30 days of the date of the notice,



1 whether modification of the project is necessary for the project to comply with 75-7-102.

2 (7) The supervisors shall review the project and affirm, overrule, or modify the individual team
3 recommendations and notify the person claiming the exemption and team members of their decision within
4 60 days of receipt of the notice.

5 (8) A person who has undertaken an exempt action under this section that is required by the
6 supervisors to be modified shall submit, within the time established by the supervisors, written notice, as
7 provided in 75-7-111, to obtain approval pursuant to 75-7-112 to mitigate the damages to the stream
8 caused by the exempt action.

9 (9) When a member of the team disagrees with the supervisors' decision of an exempt action, the
10 team member shall request that an arbitration panel, as provided in 75-7-114, be appointed to hear the
11 dispute and to make a final written decision on the dispute.

12 (10) A person is subject to civil and criminal penalties under 75-7-123 for failure to:

13 (a) provide notice for approval of an exemption under subsections (2) and (3);

14 (b) submit a notice for approval of damage mitigation actions for the project under subsection (8);

15 or

16 (c) implement the terms of a supervisors' decision for the purpose of mitigating the damage to the
17 stream caused by the exempt action.

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19 **Section 2.** Section 75-7-111, MCA, is amended to read:

20 **"75-7-111. Notice of project.** (1) ~~A~~ Except as provided in [section 1], a person planning to engage
21 in a project shall present written notice of the proposed project to the supervisors before any portion of
22 the project takes place.

23 (2) The notice must include the location, general description, and preliminary plan of the project.

24 (3) At the time of filing a notice of the proposed project under subsection (1), the applicant shall
25 sign an arbitration agreement as provided in 75-7-117.

26 (4) The district may authorize a representative to accept notices of proposed projects."
27

28 NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an
29 integral part of Title 75, chapter 7, part 1, and the provisions of Title 75, chapter 7, part 1, apply to
30 [section 1].

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