

SENATE BILL NO. 325

INTRODUCED BY D. LEWIS

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING A COUNTY COMMISSION FROM PROPOSING A RESOLUTION CREATING A ZONING DISTRICT OR ESTABLISHING ZONING REGULATIONS FOR 5 YEARS FOLLOWING A SUCCESSFUL PROTEST; AMENDING SECTION 76-2-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 76-2-205, MCA, is amended to read:

"76-2-205. Procedure for adoption of regulations and boundaries. The board of county commissioners shall observe the following procedures in the establishment or revision of boundaries for zoning districts and in the adoption or amendment of zoning regulations:

(1) Notice of a public hearing on the proposed zoning district boundaries and of regulations for the zoning district must be published once a week for 2 weeks in a newspaper of general circulation within the county. The notice must state:

- (a) the boundaries of the proposed district;
- (b) the general character of the proposed zoning regulations;
- (c) the time and place of the public hearing;
- (d) that the proposed zoning regulations are on file for public inspection at the office of the county clerk and recorder.

(2) At the public hearing, the board of county commissioners shall give the public an opportunity to be heard regarding the proposed zoning district and regulations.

(3) After the public hearing, the board of county commissioners shall review the proposals of the planning board and shall make any revisions or amendments that it determines to be proper.

(4) The board of county commissioners may pass a resolution of intention to create a zoning district and to adopt zoning regulations for the district.

(5) The board of county commissioners shall publish notice of passage of the resolution of intention once a week for 2 weeks in a newspaper of general circulation within the county. The notice must state:

- 1 (a) the boundaries of the proposed district;
- 2 (b) the general character of the proposed zoning regulations;
- 3 (c) that the proposed zoning regulations are on file for public inspection at the office of the county clerk
- 4 and recorder;
- 5 (d) that for 30 days after first publication of this notice, the board of county commissioners will receive
- 6 written protests to the creation of the zoning district or to the zoning regulations from persons owning real property
- 7 within the district whose names appear on the last-completed assessment roll of the county.
- 8 (6) Within 30 days after the expiration of the protest period, the board of county commissioners may in
- 9 its discretion adopt the resolution creating the zoning district or establishing the zoning regulations for the district.
- 10 However, if 40% of the freeholders within the district whose names appear on the last-completed assessment
- 11 roll or if freeholders representing 50% of the titled property ownership whose property is taxed for agricultural
- 12 purposes under 15-7-202 or whose property is taxed as forest land under Title 15, chapter 44, part 1, have
- 13 protested the establishment of the district or adoption of the regulations, the board of county commissioners may
- 14 not adopt the resolution and a further zoning resolution may not be proposed for the district for a period of ~~1-year~~
- 15 5 years."

16

17 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

18

19 **NEW SECTION. Section 3. Retroactive applicability.** [This act] applies retroactively, within the

20 meaning of 1-2-109, to protests that occurred on or after September 1, 2006.

21 - END -