

BUSINESS REPORT

**MONTANA SENATE
61st LEGISLATURE - REGULAR SESSION**

SENATE LOCAL GOVERNMENT COMMITTEE

Date: Wednesday, February 18, 2009
Place: Capitol

Time: 3:00 pm
Room: 405

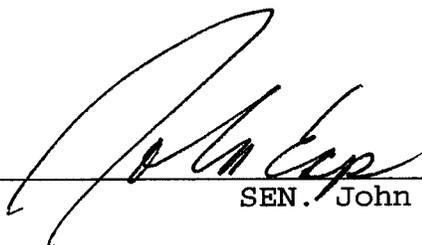
BILLS and RESOLUTIONS HEARD:

SB 231 ~ SB 433 ~ SB 434 ~ SB 448

EXECUTIVE ACTION TAKEN:

SB 231 ~ Do Pass
SB 448 ~ Do Pass As Amended
SB 310 ~ Do Pass As Amended
SB 369 ~ Do Pass As Amended
SB 305 ~ Do Pass As Amended

COMMENTS:



SEN. John Esp, Chairman

MONTANA STATE SENATE
ROLL CALL
LOCAL GOVERNMENT
COMMITTEE

DATE: February 18, 2009

NAME	PRESENT	ABSENT/ EXCUSED
Chairman John Esp	✓	
Vice Chair Jeff Essmann	✓	
Senator Gregory Barkus	✓	
Senator Ron Erickson	✓	
Senator Steve Gallus	✓	
Senator Kim Gillan	✓	
Senator Verdell Jackson		✓
Senator Jesse Laslovich	✓	
Senator Bruce Tutvedt	✓	



SENATE STANDING COMMITTEE REPORT

February 19, 2009

Page 1 of 1

Mr. President:

We, your committee on **Local Government** recommend that **Senate Bill 231** (first reading copy -- white) **do pass**.

Signed: _____



Senator John Esp, Chair

- END -

Committee Vote:

Yes 9, No 0

Fiscal Note Required

SB0231001SC.sdr

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SENATE STANDING COMMITTEE REPORT

February 19, 2009

Page 1 of 1

Mr. President:

We, your committee on **Local Government** recommend that **Senate Bill 448** (first reading copy -- white) **do pass as amended.**

Signed: _____


Senator John Esp, Chair

And, that such amendments read:

1. Title, line 5 through line 7.

Strike: "ALLOWING IMPOSITION" on line 5 through "SECURITY;" on line 7

2. Page 1, line 30 through page 2, line 4.

Strike: subsection (5) in its entirety

- END -

Committee Vote:

Yes 7, No 2

Fiscal Note Required

SB0448001SC.sdr

DR



SENATE STANDING COMMITTEE REPORT

February 19, 2009

Page 1 of 1

Mr. President:

We, your committee on **Local Government** recommend that **Senate Bill 310** (first reading copy -- white) **do pass as amended.**

Signed: _____

Senator John Esp, Chair

And, that such amendments read:

1. Page 2, line 25 through line 27.

Strike: "a waiver" on line 25 through "district." on line 27

Insert: "that a property owner waive a right to protest the creation of a special improvement district or a rural improvement district for capital improvement projects that does not identify the specific capital improvements for which protest is being waived. A waiver of a right to protest may not be valid for a time period longer than 15 years after the date that the final subdivision plat is filed with the county clerk and recorder."

- END -

Committee Vote:

Yes 8, No 1

Fiscal Note Required

SB0310001SC.sdr

DR



SENATE STANDING COMMITTEE REPORT

February 19, 2009

Page 1 of 1

Mr. President:

We, your committee on **Local Government** recommend that **Senate Bill 369** (first reading copy -- white) **do pass as amended.**

Signed: _____

Senator John Esp, Chair

And, that such amendments read:

1. Page 1, line 24.

Following: "days of"

Insert: "the"

Following: "notification"

Insert: "required under this subsection"

- END -

Committee Vote:

Yes 9, No 0

Fiscal Note Required

SB0369001SC.sdr

RE



SENATE STANDING COMMITTEE REPORT

February 19, 2009

Page 1 of 5

Mr. President:

We, your committee on **Local Government** recommend that **Senate Bill 305** (first reading copy -- white) **do pass as amended.**

Signed: _____

Senator John Esp, Chair

And, that such amendments read:

1. Title, line 5 through line 7.

Strike: "REMOVING" on line 5 through "INCLUDING" on line 7

Insert: "PROVIDING"

Following: "ESTABLISHED"

Insert: "SUBDIVISION REVIEW"

2. Title, line 9.

Strike: "76-3-501" through "76-3-625,"

Insert: "76-3-510, 76-3-604,"

3. Page 1, line 25 through page 14, line 4.

Strike: everything after the enacting clause

Insert: "**Section 1.** Section 76-3-510, MCA, is amended to read:

"76-3-510. Payment for extension of capital facilities. (1)

A local government may require a subdivider to pay or guarantee payment for part or all of the costs of extending capital facilities related to public health and safety, including but not limited to public roads, sewer lines, water supply lines, and storm drains to a subdivision. The costs must reasonably reflect the expected impacts directly attributable to the subdivision. A local government may not require a subdivider to pay or guarantee payment for part or all of the costs of constructing or extending capital facilities related to education.

(2) All fees, costs, or other money paid by a subdivider under this section must be expended on the capital facilities for which the payments were required."

Insert: "**Section 2.** Section 76-3-604, MCA, is amended to read:

Committee Vote:

Yes 9, No 0

Fiscal Note Required

SB0305001SC.sdr

DR

"76-3-604. Review of subdivision application -- review for required elements and sufficiency of information. (1) (a) Within 5 working days of receipt of a subdivision application submitted in accordance with any deadlines established pursuant to 76-3-504(3) and receipt of the review fee submitted as provided in 76-3-602, the reviewing agent or agency shall determine whether the application contains all of the listed materials as required by 76-3-504(1)(a) and shall notify the subdivider or, with the subdivider's written permission, the subdivider's agent of the reviewing agent's or agency's determination.

(b) If the reviewing agent or agency determines that elements are missing from the application, the reviewing agent or agency shall identify those elements in the notification.

(2) (a) Within 15 working days after the reviewing agent or agency notifies the subdivider or the subdivider's agent that the application contains all of the required elements as provided in subsection (1), the reviewing agent or agency shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review of the proposed subdivision under the provisions of this chapter and the local regulations adopted pursuant to this chapter and shall notify the subdivider or, with the subdivider's written permission, the subdivider's agent of the reviewing agent's or agency's determination.

(b) If the reviewing agent or agency determines that information in the application is not sufficient to allow for review of the proposed subdivision, the reviewing agent or agency shall identify the insufficient information in its notification.

(c) A determination that an application contains sufficient information for review as provided in this subsection (2) does not ensure that the proposed subdivision will be approved or conditionally approved by the governing body and does not limit the ability of the reviewing agent or agency or the governing body to request additional information during the review process.

(3) The time limits provided in subsections (1) and (2) apply to each submittal of the application until:

(a) a determination is made that the application contains the required elements and sufficient information; and

(b) the subdivider or the subdivider's agent is notified.

(4) After the reviewing agent or agency has notified the subdivider or the subdivider's agent that an application contains sufficient information as provided in subsection (2), the governing body shall approve, conditionally approve, or deny the proposed subdivision within 60 working days, based on its determination of whether the application conforms to the provisions of this chapter and to the local regulations adopted pursuant to this chapter, unless:

(a) the subdivider and the reviewing agent or agency agree to an extension or suspension of the review period, not to exceed 1 year; or

(b) a subsequent public hearing is scheduled and held as

provided in 76-3-615.

(5) If the governing body fails to comply with the time limits under this section, the governing body shall pay to the subdivider a financial penalty of \$50 per lot per month or a pro rata portion of a month, not to exceed the total amount of the subdivision review fee collected by the governing body for the subdivision application, until the governing body denies, approves, or conditionally approves the subdivision.

~~(5)~~(6) If the governing body denies or conditionally approves the proposed subdivision, it shall send the subdivider a letter, with the appropriate signature, that complies with the provisions of 76-3-620.

~~(6)~~(7) (a) The governing body shall collect public comment submitted at a hearing or hearings regarding the information presented pursuant to 76-3-622 and shall make any comments submitted or a summary of the comments submitted available to the subdivider within 30 days after conditional approval or approval of the subdivision application and preliminary plat.

(b) The subdivider shall, as part of the subdivider's application for sanitation approval, forward the comments or the summary provided by the governing body to the:

(i) reviewing authority provided for in Title 76, chapter 4, for subdivisions that will create one or more parcels containing less than 20 acres; and

(ii) local health department or board of health for proposed subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres.

~~(7)~~(8) (a) For a proposed subdivision that will create one or more parcels containing less than 20 acres, the governing body may require approval by the department of environmental quality as a condition of approval of the final plat.

(b) For a proposed subdivision that will create one or more parcels containing 20 acres or more, the governing body may condition approval of the final plat upon the subdivider demonstrating, pursuant to 76-3-622, that there is an adequate water source and at least one area for a septic system and a replacement drainfield for each lot.

~~(8)~~(9) (a) Review and approval, conditional approval, or denial of a proposed subdivision under this chapter may occur only under those regulations in effect at the time a subdivision application is determined to contain sufficient information for review as provided in subsection (2).

(b) If regulations change during the review periods provided in subsections (1) and (2), the determination of whether the application contains the required elements and sufficient information must be based on the new regulations."

Insert: "Section 3. Section 76-4-125, MCA, is amended to read:

"76-4-125. Review of subdivision application -- land divisions excluded from review. (1) Except as provided in subsection (2), an application for review of a subdivision must be submitted to the reviewing authority. The review by the

reviewing authority must be as follows:

(a) At any time after the developer has submitted an application under the Montana Subdivision and Platting Act, the developer shall present a subdivision application to the reviewing authority. The application must include preliminary plans and specifications for the proposed development, whatever information the developer feels necessary for its subsequent review, any public comments or summaries of public comments collected as provided in 76-3-604~~(6)~~(7), and information required by the reviewing authority. Subdivision fees assessed by the reviewing authority must accompany the application. If the proposed development includes onsite sewage disposal facilities, the developer shall notify the designated agent of the local board of health prior to presenting the subdivision application to the reviewing authority. The agent may conduct a preliminary site assessment to determine whether the site meets applicable state and local requirements.

(b) Except as provided in 75-1-205(4) and 75-1-208(4)(b), the department shall make a final decision on the proposed subdivision within 60 days after the submission of a complete application and payment of fees to the reviewing authority unless an environmental impact statement is required, at which time this deadline may be increased to 120 days. The reviewing authority may not request additional information for the purpose of extending the time allowed for a review and final decision on the proposed subdivision. If the department approves the subdivision, the department shall issue a certificate of subdivision approval indicating that it has approved the plans and specifications and that the subdivision is not subject to a sanitary restriction.

(2) A subdivision excluded from the provisions of chapter 3 must be submitted for review according to the provisions of this part, except that the following divisions or parcels, unless the exclusions are used to evade the provisions of this part, are not subject to review:

(a) the exclusions cited in 76-3-201 and 76-3-204;

(b) divisions made for the purpose of acquiring additional land to become part of an approved parcel, provided that water or sewage disposal facilities may not be constructed on the additional acquired parcel and that the division does not fall within a previously platted or approved subdivision;

(c) divisions made for purposes other than the construction of water supply or sewage and solid waste disposal facilities as the department specifies by rule;

(d) divisions located within jurisdictional areas that have adopted growth policies pursuant to chapter 1 or within first-class or second-class municipalities for which the governing body certifies, pursuant to 76-4-127, that adequate storm water drainage and adequate municipal facilities will be provided; and

(e) subject to the provisions of subsection (3), a remainder of an original tract created by segregating a parcel

from the tract for purposes of transfer if:

(i) the remainder is served by a public or multiple-user sewage system approved before January 1, 1997, pursuant to local regulations or this chapter; or

(ii) the remainder is 1 acre or larger and has an individual sewage system serving a discharge source that was in existence prior to April 29, 1993, and, if required when installed, the system was approved pursuant to local regulations or this chapter.

(3) Consistent with the applicable provisions of 50-2-116, a local health officer may require that, prior to the filing of a plat or a certificate of survey subject to review under this part for the parcel to be segregated from the remainder referenced in subsection (2)(e)(ii), the remainder include acreage or features sufficient to accommodate a replacement drainfield."

Insert: "NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval."

- END -

ROLL CALL VOTE
 LOCAL GOVERNMENT
 COMMITTEE
 MONTANA STATE SENATE

Date: 2.18.09

Bill No.: SB 305

Motion: be amended

NAME <i>(9 Members)</i>	AYE	NO	Proxy
Vice Chairman Jeff Essmann	✓		
Sen. Kim Gillan		✓	
Sen. Gregory Barkus	✓		
Sen. Ron Erickson		✓	
Sen. Steve Gallus		✓	✓
Sen. Verdell Jackson	✓		
Sen. Jesse Laslovich		✓	
Sen. Bruce Tutvedt	✓		
Chairman John Esp		✓	

VOTE: 4-5 fails

ROLL CALL VOTE
 LOCAL GOVERNMENT
 COMMITTEE
 MONTANA STATE SENATE

Date: 2/18/09

Bill No.: SB305

Motion: Do Pass As Amended

NAME <i>(9 Members)</i>	AYE	NO	Proxy
Vice Chairman Jeff Essmann	✓		
Sen. Kim Gillan	✓		
Sen. Gregory Barkus	✓		
Sen. Ron Erickson	✓		
Sen. Steve Gallus	✓		✓
Sen. Verdell Jackson	✓		
Sen. Jesse Laslovich	✓		
Sen. Bruce Tutvedt	✓		
Chairman John Esp	✓		

VOTE: 9-0

AUTHORIZED SENATE COMMITTEE PROXY

I request to be excused from Senate Local Govt Committee because of other commitments. I desire to leave my proxy vote with:

Sen. Gillan (Sen. Gillan)

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT AYE NO

SB 231	X	
SB 448 Amendment	X	
SB DPas ⁴⁴⁸ Amend	X	
SB 310 Amendment	X	
SB 369 Amendment	X	
SB 369	X	
SB 305 Amendment ³⁰⁵		X
SB 305 And 30504	X	
SB 305 And 305E	X	
SB 305 Amendment	X	
SB 310 DPAA	X	

BILL/AMENDMENT AYE NO

sen. Olivia
(Signature)
Sen. Gallen

Date Feb 18 '08

VISITORS REGISTER

MONTANA SENATE LOCAL GOVERNMENT

Date: February 18, 2009 Bill No: SB 448

Sponsor(s): Sen. Jim Keane

(Allow county commissioner to perform marriage)

Please print ~ Please print ~ Please print

NAME	REPRESENTING	Support	Oppose	Informat'l
Jim Reno	Yellowstone Co	X		
Johnny Seiffert	MMA		X	
Lacey Coe	MMA		X	
Mary "Marty" Phippen	Mt. Magistrates Assn		X	
John Ostlund	Yellowstone County	X		

Please leave prepared testimony with Committee Secretary. Witness Statement forms are available if you prefer to submit written testimony.

VISITORS REGISTER

MONTANA SENATE LOCAL GOVERNMENT

Date: February 18, 2009 Bill No: SB 231

Sponsor(s): Sen. Rick Laible

(Revise the impact fee enabling act to require service area report)

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NAME	REPRESENTING	Support	Oppose	Informat'l
Rick Hill	MSEA	X		
TIM DAVIS	MSGL	X		
Glenn Appel	MARL	X		

Please leave prepared testimony with Committee Secretary. Witness Statement forms are available if you prefer to submit written testimony.

VISITORS REGISTER

MONTANA SENATE LOCAL GOVERNMENT

Date: February 18, 2009 Bill No: SB 434

Sponsor(s): Sen. Kelly Gebhardt

(Limit governmental liability for rodeo events)

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NAME	REPRESENTING	<i>Support</i>	<i>Oppose</i>	<i>Informat'l</i>
Jim Reno	Yellowstone Co	X		
John Ostlund	Yellowstone PD	X		
Al Smith	MTLHA		X	
Harold Butler	MACE	X		

Please leave prepared testimony with Committee Secretary. Witness Statement forms are available if you prefer to submit written testimony.

VISITORS REGISTER

MONTANA SENATE LOCAL GOVERNMENT

Date: February 18, 2009 Bill No: SB 433

Sponsor(s): Sen. Kelly Gebhardt
(Revise opencut mining laws)

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NAME	REPRESENTING	Support	Oppose	Informat'l
Jessie Hopewell	private citizen		✓	
ALRICK HALE	KNIFE RIVER		X	
DAVE Zinke	knife river		✓	
Jackie Flickerman	Knife River		✓	
Card Lee Roark	private citizen		✓	
Jean Fitey	private citizen		✓	
Judy Hansen	DRQ			✓
Mike Newton	Fisher Sand & Gravel	✓		
Mike Sharp	Prince, Inc.	✓		
Bob Warrick	Schwelinger Const.	✓		
Paul Thompson	Gilman Const.	✓		
Jerry Bowser	Oldcastle	✓		
Ron Pife	SIME Const.	✓		
Myra Shults	J&A/MAC		X 31-4	

Please leave prepared testimony with Committee Secretary. Witness Statement forms are available if you prefer to submit written testimony.

VISITORS REGISTER

MONTANA SENATE LOCAL GOVERNMENT

Date: February 18, 2009 Bill No: SB 433

Sponsor(s): Sen. Kelly Gebhardt
(Revise opencut mining laws)

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NAME	REPRESENTING	Support	Oppose	Informat'l
Neil Harrington	DEQ			X
Cary Hegreberg	Contractors	X		
Matt Jesson	Land owner	X		
Basil Jacobson	MCA-Contractor	X		
John Alle	Kettle River		✓	
Don Seifert	Land Owner		✓	
John Ostlund			X	
LINDA STOLL	MISSOULA COUNTY MT ASSN OF PLANNERS	X	✓	
TIM DAVIS	MSGC		X	
Casey Perkins	MT Audubon		X	
KARI HAGUE	SELF		XX	

Please leave prepared testimony with Committee Secretary. Witness Statement forms are available if you prefer to submit written testimony.