

SENATE BILL NO. 164

INTRODUCED BY B. HAWKS

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CONTENTS OF GROWTH POLICIES FOR COUNTIES AND CONSOLIDATED CITY-COUNTY GOVERNMENTS THAT HAVE CERTAIN RIVERS WITHIN THEIR JURISDICTIONS; PROVIDING CONSERVATION MEASURES FOR THOSE RIVERS IN THEIR GROWTH POLICIES; ESTABLISHING REQUIREMENTS FOR CONSERVATION MEASURES; AMENDING SECTION 76-1-601, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Findings -- purpose.** (1) The legislature recognizes that:

(a) there are certain legacy rivers for which the state is well known that represent the essence of Montana and provide irreplaceable benefits to the economy, the environment, and the quality of life that all Montanans enjoy;

(b) increasing development along the state's legacy rivers is causing increased rates of soil erosion, diminished water quality, unnecessary damage to protective vegetation, reduced habitat for fish and wildlife, and heightened risk of flooding and property loss to downstream landowners;

(c) development along the state's legacy rivers often differs between local jurisdictions and between regions of the state, and development in one jurisdiction can reduce the natural and economic values along the same river in another jurisdiction; and

(d) local governments that have legacy rivers within their jurisdictions possess site-specific knowledge that is necessary for the protection and conservation of Montana's legacy rivers.

(2) It is the intent of [sections 1 through 3] to:

(a) provide counties and consolidated city-county governments with flexible, site-specific mechanisms for protecting the state's legacy rivers in a manner that is best suited to the needs of their citizens;

(b) enact a mechanism for ensuring that development along the state's legacy rivers, which have widespread cultural, economic, social, environmental, and recreational value to the state, proceeds in a way that:

(i) protects property from flooding and erosion;



- 1 (ii) protects water quality and availability;
- 2 (iii) protects functioning flood plains;
- 3 (iv) provides opportunities for recreation;
- 4 (v) protects valuable water recharge areas;
- 5 (vi) preserves fish and wildlife habitat; and
- 6 (vii) preserves the use and enjoyment of private property.
- 7 (c) ensure that the state's legacy rivers are protected for the cultural, economic, social, environmental,
- 8 and recreational benefit of future generations.

9

10 **NEW SECTION. Section 2. Legacy rivers defined.** (1) As used in [sections 1 through 3], "legacy river"

11 means, as defined by the United States geological survey, the mainstem of a river from its point of origin to the

12 point where the river connects to another river, below which its name changes, or where the river leaves the state

13 for the:

- 14 (a) Bitterroot River;
- 15 (b) Blackfoot River;
- 16 (c) Clark Fork River;
- 17 (d) Flathead River;
- 18 (e) Gallatin River;
- 19 (f) Jefferson River;
- 20 (g) Madison River;
- 21 (h) Missouri River from its headwaters near Three Forks to the line between Cascade and Chouteau
- 22 Counties;
- 23 (i) Smith River; and
- 24 (j) Yellowstone River from the Montana-Wyoming border to the line between Treasure and Rosebud
- 25 Counties.

26 (2) The term does not include any lake or reservoir along a river or any upstream fork or tributary of a

27 river.

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29 **NEW SECTION. Section 3. Legacy rivers -- conservation measures.** The conservation measures

30 developed by a county or a consolidated city-county government pursuant to 76-1-601(3)(k) must:

- 1 (1) designate the area along the legacy river where the conservation measures apply;
- 2 (2) fulfill the purposes of [section 1];
- 3 (3) address development along the legacy river;
- 4 (4) be based on peer-reviewed scientific studies and local, site-specific information; and
- 5 (5) provide for a variance procedure for development that would be prohibited or restricted because of
- 6 the conservation measures.

7

8 **Section 4.** Section 76-1-601, MCA, is amended to read:

9 **"76-1-601. Growth policy -- contents.** (1) A growth policy may cover all or part of the jurisdictional area.

10 (2) The extent to which a growth policy addresses the elements listed in subsection (3) is at the full  
11 discretion of the governing body.

12 (3) A growth policy must include:

13 (a) community goals and objectives;

14 (b) maps and text describing an inventory of the existing characteristics and features of the jurisdictional  
15 area, including:

16 (i) land uses;

17 (ii) population;

18 (iii) housing needs;

19 (iv) economic conditions;

20 (v) local services;

21 (vi) public facilities;

22 (vii) natural resources;

23 (viii) sand and gravel resources; and

24 (ix) other characteristics and features proposed by the planning board and adopted by the governing  
25 bodies;

26 (c) projected trends for the life of the growth policy for each of the following elements:

27 (i) land use;

28 (ii) population;

29 (iii) housing needs;

30 (iv) economic conditions;

- 1 (v) local services;
- 2 (vi) natural resources; and
- 3 (vii) other elements proposed by the planning board and adopted by the governing bodies;
- 4 (d) a description of policies, regulations, and other measures to be implemented in order to achieve the
- 5 goals and objectives established pursuant to subsection (3)(a);
- 6 (e) a strategy for development, maintenance, and replacement of public infrastructure, including drinking
- 7 water systems, wastewater treatment facilities, sewer systems, solid waste facilities, fire protection facilities,
- 8 roads, and bridges;
- 9 (f) an implementation strategy that includes:
- 10 (i) a timetable for implementing the growth policy;
- 11 (ii) a list of conditions that will lead to a revision of the growth policy; and
- 12 (iii) a timetable for reviewing the growth policy at least once every 5 years and revising the policy if
- 13 necessary;
- 14 (g) a statement of how the governing bodies will coordinate and cooperate with other jurisdictions that
- 15 explains:
- 16 (i) ~~if a governing body is~~ for a city or town, how the governing body will coordinate and cooperate with
- 17 the county in which the city or town is located on matters related to the growth policy;
- 18 (ii) ~~if a governing body is~~ for a county, how the governing body will coordinate and cooperate with cities
- 19 and towns located within the county's boundaries on matters related to the growth policy;
- 20 (h) a statement explaining how the governing bodies will:
- 21 (i) define the criteria in 76-3-608(3)(a); and
- 22 (ii) evaluate and make decisions regarding proposed subdivisions with respect to the criteria in
- 23 76-3-608(3)(a);
- 24 (i) a statement explaining how public hearings regarding proposed subdivisions will be conducted; and
- 25 (j) an evaluation of the potential for fire and wildland fire in the jurisdictional area, including whether or
- 26 not there is a need to:
- 27 (i) delineate the wildland-urban interface; and
- 28 (ii) adopt regulations requiring:
- 29 (A) defensible space around structures;
- 30 (B) adequate ingress and egress to and from structures and developments to facilitate fire suppression

1 activities; and

2 (C) adequate water supply for fire protection.

3 (k) for a county or a consolidated city-county government that has a legacy river, as defined in [section  
4 2], within its jurisdictional area, a statement of conservation measures for protecting the cultural, economic, social,  
5 environmental, and recreational values provided by the legacy river. The conservation measures must meet the  
6 requirements in [section 3].

7 (4) A growth policy may:

8 (a) include one or more neighborhood plans. A neighborhood plan must be consistent with the growth  
9 policy.

10 (b) establish minimum criteria defining the jurisdictional area for a neighborhood plan;

11 (c) establish an infrastructure plan that, at a minimum, includes:

12 (i) projections, in maps and text, of the jurisdiction's growth in population and number of residential,  
13 commercial, and industrial units over the next 20 years;

14 (ii) for a city, a determination regarding if and how much of the city's growth is likely to take place outside  
15 of the city's existing jurisdictional area over the next 20 years and a plan of how the city will coordinate  
16 infrastructure planning with the county or counties where growth is likely to take place;

17 (iii) for a county, a plan of how the county will coordinate infrastructure planning with each of the cities  
18 that project growth outside of city boundaries and into the county's jurisdictional area over the next 20 years;

19 (iv) for ~~cities~~ a city, a land use map showing where projected growth will be guided and at what densities  
20 within city boundaries;

21 (v) for ~~cities and counties~~ a city or county, a land use map that designates infrastructure planning areas  
22 adjacent to cities showing where projected growth will be guided and at what densities;

23 (vi) using maps and text, a description of existing and future public facilities necessary to efficiently serve  
24 projected development and densities within infrastructure planning areas, including, whenever feasible, extending  
25 interconnected municipal street networks, sidewalks, trail systems, public transit facilities, and other municipal  
26 public facilities throughout the infrastructure planning area. For the purposes of this subsection (4)(c)(vi), public  
27 facilities include but are not limited to drinking water treatment and distribution facilities, sewer systems,  
28 wastewater treatment facilities, solid waste disposal facilities, parks and open space, schools, public access  
29 areas, roads, highways, bridges, and facilities for fire protection, law enforcement, and emergency services;

30 (vii) a description of proposed land use management techniques and incentives that will be adopted to

1 promote development within cities and in an infrastructure planning area, including land use management  
2 techniques and incentives that address issues of housing affordability;

3 (viii) a description of how and where projected development inside municipal boundaries for cities and  
4 inside designated joint infrastructure planning areas for cities and counties could adversely impact:

5 (A) threatened or endangered wildlife and critical wildlife habitat and corridors;

6 (B) water available to agricultural water users and facilities;

7 (C) the ability of public facilities, including schools, to safely and efficiently service current residents and  
8 future growth;

9 (D) a local government's ability to provide adequate local services, including but not limited to  
10 emergency, fire, and police protection;

11 (E) the safety of people and property due to threats to public health and safety, including but not limited  
12 to wildfire, flooding, erosion, water pollution, hazardous wildlife interactions, and traffic hazards;

13 (F) natural resources, including but not limited to forest lands, mineral resources, sand and gravel  
14 resources, streams, rivers, lakes, wetlands, and ground water; and

15 (G) agricultural lands and agricultural production; and

16 (ix) a description of measures, including land use management techniques and incentives, that will be  
17 adopted to avoid, significantly reduce, or mitigate the adverse impacts identified under subsection (4)(c)(viii).

18 (5) The planning board may propose and the governing bodies may adopt additional elements of a  
19 growth policy in order to fulfill the purpose of this chapter."

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21 **NEW SECTION. Section 5. Codification instruction.** [Sections 1 through 3] are intended to be codified  
22 as an integral part of Title 76, chapter 1, and the provisions of Title 76, chapter 1, apply to [sections 1 through 3].

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24 **NEW SECTION. Section 6. Effective date.** [This act] is effective on passage and approval.

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26 **NEW SECTION. Section 7. Applicability.** [Sections 2 through 4] apply upon the adoption of a new  
27 growth policy or upon the revision of an existing growth policy.

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