EXHIBIT 2
DATE 3-23-11
SB 379

Amendments to Senate Bill No. 379
2nd Reading Copy

Requested by Senator Alan Olson

For the House Local Government Committee

Prepared by Leanne Kurtz
March 23, 2011 (12:35pm)

1. Title, line 11.
Following: "~~LAWS;~~"
Strike: "AND"
Following: "MCA"
Insert: "; AND PROVIDING A CONTINGENT EFFECTIVE DATE"

2. Page 1, line 21.
Following: "property"
Insert: "; and

WHEREAS, the government should establish through public record whether there may be a diminution in value of affected property from proposed zoning regulations, districts, and amendments and whether the expected benefits are proportional to the probable impacts; and

WHEREAS, the government should consider alternatives or modifications when alternatives or modifications would mitigate adverse economic impacts and unreasonable limitations on affected property; and

WHEREAS, the government should rely on credible evidence established through the public record to support the proposed zoning regulations, districts, and amendments as a means to protect the public health, safety, morals, and general welfare"

3. Page 1, line 25.
Following: "2,"
Insert: "and"
Following: "9"
Strike: ", 11, and 12"

4. Page 2, line 6.
Following: "2,"
Insert: "and"
Following: "9"
Strike: ", 11, and 12"

5. Page 2, line 8.
Following: "Affected"
Insert: "real"

6. Page 2, line 11.
Following: "Affected"
Insert: "real"
Following: "affected"
Insert: "real"

7. Page 2.
Following: line 13
Insert: "(3) (a) "Fair market value" means the price that would be agreed to by a willing and informed seller and buyer, taking into consideration the highest and best reasonably available use of the property, the value of that use, and any other relevant factors for which evidence is offered.
(b) Current use may not be presumed to be the highest and best use."
Renumber: subsequent subsections

8. Page 2, line 15.
Following: "affected"
Insert: "real"

9. Page 2, line 16.
Strike: "25%"
Insert: "40%"
Following: "affected"
Insert: "real"

10. Page 2, line 22.
Strike: "interest or convenience"
Insert: "health, safety, morals, or general welfare"

11. Page 3, line 20.
Strike: "once" through "county"
Insert: "in accordance with 7-1-2121"

12. Page 3, line 24.
Following: "proper"
Insert: "based upon the public comment and the record"

13. Page 3, line 27.
Strike: "once" through "county"
Insert: "in accordance with 7-1-2121"

14. Page 4, line 3.
Strike: "60"
Insert: "45"

15. Page 4, line 5.
Following: "affected"
Insert: "real"

16. Page 4, line 7.
Strike: "60"
Insert: "45"

17. Page 4, line 8.
Following: "affected"
Insert: "real"

18. Page 4, line 16.
Following: "unanimous"
Insert: "affirmative"
Strike: "whenever a county has"
Insert: "in counties with"

19. Page 4, line 17.
Following: "(ii)"
Strike: "a"
Insert: "an affirmative"
Following: "vote of"
Insert: "at least"
Strike: "elected"
Insert: "county"
Strike: "whenever a county has"
Insert: "in counties with"

20. Page 4, line 18.
Following: "(iii)"
Insert: "an affirmative vote of at least"
Strike: "elected"
Insert: "county"
Strike: "whenever a county has"
Insert: "in counties with"

21. Page 4, line 19.
Following: "exists"
Insert: "as determined by the county attorney"

22. Page 4, line 21.
Following: "affected"
Insert: "real"

23. Page 4, line 29.
Following: "affected"

Insert: "real"

24. Page 5, line 3.
Following: "submit"
Insert: "relevant"

25. Page 5, line 4.
Strike: "property"
Insert: "fair market"
Following: "value of"
Strike: "a"
Insert: "the property of"

26. Page 5, line 5.
Strike: "landowner"
Insert: "landowners"

27. Page 5, line 6.
Following: "by"
Strike: "a"

28. Page 5, line 10.
Following: "deprives"
Strike: "a"
Strike: "landowner"
Insert: "landowners"

29. Page 5, line 11.
Strike: "landowner's"
Insert: "landowners'"

30. Page 5, line 16.
Following: "If"
Strike: "a"
Insert: "the"
Strike: "landowner submits"
Insert: "landowners submit"

31. Page 5, line 17.
Following: "diminution in"
Insert: "the aggregate"
Following: "value of"
Insert: "all of"
Strike: "landowner's"
Insert: "landowners' affected real"

32. Page 5, lines 21 and 22.
Following: "diminution in" on line 21
Insert: "the aggregate"

Strike: "each" on line 21
Insert: "all of the protesting landowners' affected real"
Strike: "owned" on line 21 through "landowner" on line 22

33. Page 5, line 23 through line 25.
Strike: subsection (4) in its entirety

34. Page 5, line 30 through page 6, line 4.
Strike: "," on page 5, line 30 through "landowner" on page 6, line 4
Insert: "regarding alternatives to the proposed zoning action or mitigating modifications to the proposed zoning action"

35. Page 6, line 7.
Strike: "less restrictive mean exists"
Insert: "alternatives or mitigating modifications may be implemented"

36. Page 6, line 8.
Strike: "may not adopt"
Insert: "shall modify"
Following: "action"
Insert: "to incorporate the alternatives or mitigating modifications"

37. Page 6, line 26.
Strike: "once" through "county"
Insert: "in accordance with 7-1-2121"

38. Page 6, line 27.
Strike: "delivered via first class mail"
Insert: "mailed pursuant to 7-1-2122"
Following: "each"
Insert: "owner of"
Following: "affected"
Insert: "real"
Following: "property"
Strike: "owner"

39. Page 6, line 29 through page 7, line 12.
Strike: "The" on page 6, line 29 through "welfare." on page 7, line 12

40. Page 7, lines 14 and 15.
Following: "76-2-110" on line 14
Insert: "or in 76-2-227"
Following: "date the" on line 14
Strike: "real" on line 14 through "property" on line 15
Following: "findings" on line 15
Insert: "mailed pursuant to 7-1-2122"

41. Page 8, line 27 through page 9, line 24.
Strike: sections 11 through 13 in their entirety
Insert: "NEW SECTION. **Section 11. {standard} Codification instruction.** [Sections 1, 2, and 4 through 9] are intended to be codified as an integral part of:

(1) Title 76, chapter 2, part 1, and the provisions of Title 76, chapter 2, part 1, apply to [sections 1, 2, and 4 through 9]; and

(2) Title 76, chapter 2, part 2, and the provisions of Title 76, chapter 2, part 2, apply to [sections 1, 2, and 4 through 9]."

Insert: "NEW SECTION. **Section 12. {standard} Contingent effective date.** [This act] becomes effective on the date that the clerk of the Montana supreme court notifies the code commissioner that the Montana supreme court has declared the protest provisions of 76-2-101 or 76-2-205 to be unconstitutional."

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