



AN ACT REQUIRING NOTICE OF PROPOSED AGENCY PRIVATE PROPERTY ASSESSMENTS TO THE PUBLIC AND INTERESTED PERSONS THROUGH E-MAIL AND POSTAL MAILING LISTS AND A WEBSITE; AND ALLOWING CIVIL ACTION TO VOID A PROPOSED AGENCY ACTION FOR FAILURE TO PROVIDE REQUIRED NOTICE.

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

Section 1. Notice to public and interested persons. (1) After an impact assessment has been completed, and regardless of the findings in the assessment, the state agency that performed the impact assessment shall provide notice to the public and interested persons of its intent to engage in the proposed action. The notice must be provided through use of either electronic e-mail lists or postal mail lists to all persons who have elected to be notified of impact assessments and through the use of the state's official internet website used by all state agencies.

(a) The electronic e-mail lists and postal mail lists must be established to allow interested persons to be on lists notifying them of impact assessments of all state agencies or of specific information based on agency name or geographical location of a proposed action and may provide notice based on other criteria that would promote public awareness of proposed actions.

(b) The agency website link must allow access to impact assessments of all state agencies or to specific information based on agency name or geographical location of a proposed action and may also be based on other criteria that would promote public awareness of proposed actions. The website must provide a summary of the impact assessment and a link to a source for the complete impact assessment.

(2) If due to time constraints a state agency is compelled to take an action allowed by this part before completion of an impact assessment, it shall, within 3 days of learning of the requirement to take the action, post notice of the action and provide a brief explanation of the action, the need for expedited action, and an estimate of when the action will be completed and the expected availability of the completed summary and impact statement.

(3) Unless the action may be taken without a completed impact statement as provided in this part, the state agency may not take the proposed action until it has completed and posted the impact statement.

(4) The state agency shall update the assessment and provide notice to the public if the action is not adopted before the 180th day after the date the original notice was given.

Section 2. Suit to invalidate state agency action. (1) A state agency's adopted action is not valid unless the action was taken in compliance with 2-10-105. A private property owner affected by a state agency action taken without fulfilling the requirements of 2-10-105 may bring suit for a declaration of invalidity of the action.

(2) A suit under this section must be filed in a court in the county in which the property owner's affected property is located. If the affected property is located in more than one county, the property owner may file suit in any county in which the affected property is located.

(3) The court shall award a property owner who prevails in a suit under this section reasonable and necessary attorney fees and court costs.

Section 3. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 4. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 2, chapter 10, part 1, and the provisions of Title 2, chapter 10, part 1, apply to [sections 1 and 2].

- END -

I hereby certify that the within bill,
SB 0347, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2011.

Speaker of the House

Signed this _____ day
of _____, 2011.

SENATE BILL NO. 347
INTRODUCED BY B. LAKE

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