

HOUSE BILL NO. 346

INTRODUCED BY C. FISCUS

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A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "BYPASS" IN THE CONTEXT OF HIGHWAY CONSTRUCTION AND RELOCATION; REQUIRING PRIOR CONSENT BY A COUNTY FOR THE CONSTRUCTION OF A BYPASS IN THE COUNTY'S JURISDICTION; REQUIRING NOTIFICATION TO CERTAIN PROPERTY OWNERS ABOUT A PROPOSED HIGHWAY BYPASS; EXTENDING RULEMAKING AUTHORITY; AMENDING SECTION 60-2-211, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

WHEREAS, the Montana Code Annotated does not define "bypass" for the purposes of highway construction or relocation; and

WHEREAS, property owners' health and property values can be harmed or destroyed from the effects of a bypass; and

WHEREAS, family life can be ruined from the construction or relocation of a bypass; and

WHEREAS, social, economic, and financial considerations must be protected and promoted; and

WHEREAS, a highway bypass can potentially be the catalyst for billions of dollars of economic development; and

WHEREAS, the Montana Legislature must protect its citizens from ill-conceived plans for the construction or relocation of highway bypasses.

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

**Section 1.** Section 60-2-211, MCA, is amended to read:

**"60-2-211. Bypassing of municipalities -- buffer zone -- consent of municipal governing body -- notification of property owners -- definition.** (1) The department may not construct a highway bypasses bypass or a highway relocation projects project without prior consent of the respective governing body bodies of an the incorporated municipality and the county in which the municipality lies when the bypasses or projects bypass or project:

(a) are is not part of the national system of interstate highways built under the National Defense Highway



1 Act; and

2 (b) ~~divert~~ diverts motor vehicles from an existing highway route through a municipality incorporated prior  
3 to January 1, 1965.

4 (2) The department shall notify the respective governing body bodies of the municipality and county by  
5 certified mail that ~~it~~ the department proposes to bypass the municipality. A contract may not be let or work  
6 commenced until the respective governing body notifies bodies each notify the department of ~~its~~ their respective  
7 consent or until the elapse of ~~60~~ 90 days after the notice has been sent by the department ~~to the municipality,~~  
8 whichever first occurs. The failure of the municipality or county to act and notify the department of ~~its~~ the  
9 municipality's or county's action within the ~~60-day~~ 90-day period is implied consent to the bypass.

10 (3) Actual consent or refusal to the proposed bypass ~~shall~~ or project must be in the form of a resolution  
11 ~~duly~~ adopted by a majority of the members of the respective governing body bodies of the municipality and  
12 county.

13 (4) ~~The~~ A municipality's or a county's governing body may not withdraw consent once the department  
14 has been notified of the consent.

15 (5) Early in the planning process, the department shall notify by certified mail each owner of property that  
16 is adjacent to the location of or in the right-of-way of a potential highway bypass that the department proposes  
17 to build the bypass or project.

18 (6) For the purposes of this section, "bypass" means a highway that skirts or bypasses a built-up area,  
19 town, or village to allow through traffic to flow without interference from local traffic, to avoid congestion in the  
20 built-up area, and to improve road safety."

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

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24 NEW SECTION. Section 3. Applicability -- nonapplicability. (1) [This act] applies to the planning  
25 process for the construction of a highway bypass that began on or after [6 months prior to the effective date of  
26 this act] if a contract for the construction of a highway bypass has not been entered into before [the effective date  
27 of this act].

28 (2) [This act] does not apply to:

29 (a) the planning process for the construction of a highway bypass that began before [6 months prior to  
30 the effective date of this act]; or

- 1 (b) a contract for the construction of a highway bypass entered into before [the effective date of this act]
- 2 or to the planning process associated with the contract.
- 3 - END -