

HOUSE BILL NO. 398

INTRODUCED BY T. RICHMOND

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO THE RECOVERY OF ATTORNEY FEES IN NATURAL RESOURCE PROCEEDINGS; LIMITING THE AMOUNT OF ATTORNEY FEES THAT MAY BE RECOVERED IN NATURAL RESOURCE PERMITTING PROCEEDINGS AGAINST THE STATE TO THE AMOUNT CHARGED BY THE DEPARTMENT OF JUSTICE FOR THE PROVISION OF LEGAL SERVICES TO STATE AGENCIES; AND PROVIDING AN APPLICABILITY DATE."

WHEREAS, Montana's environmental and natural resource permitting processes help conserve and protect the natural resource base that supports Montana's economy; and

WHEREAS, the state has an interest in holding itself accountable to the legal requirements of environmental and natural resource permitting requirements; and

WHEREAS, the state also has an interest in being financially responsible to the people of Montana, which includes protecting itself from the award of unreasonable attorney fees that might otherwise be awarded by a court to a party that prevails in an action against the state; and

WHEREAS, the state recognizes the need to balance the needs for environmental protection, protection of the state's economy, and financial responsibility.

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

NEW SECTION. Section 1. Attorney fees -- recoverable amount. (1) If a court awards attorney fees against the state in a challenge to the issuance or denial of a permit, license, or certificate under the provisions of this title or in a mandamus action to compel a duty under this title, the court shall limit the amount of attorney fees that may be recovered to an amount not to exceed the hourly rate charged by the department of justice for the provision of legal services to state agencies multiplied by the reasonable number of attorney hours devoted to the proceeding.

(2) This section does not authorize the recovery of attorney fees in any proceeding.

NEW SECTION. Section 2. Codification instruction. (1) [Section 1] is intended to be codified as an



1 integral part of Title 75, and the provisions of Title 75 apply to [section 1].

2 (2) [Section 1] is intended to be codified as an integral part of Title 82, and the provisions of Title 82 apply
3 to [section 1].

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5 **NEW SECTION. Section 3. Saving clause.** [This act] does not affect rights and duties that matured,
6 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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8 **NEW SECTION. Section 4. Applicability.** [This act] applies to proceedings begun on or after [the
9 effective date of this act].

10 - END -