

HOUSE BILL NO. 640

INTRODUCED BY F. MANDEVILLE

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LOCAL GOVERNMENT LAWS; PROHIBITING THE ADOPTION OF LAND USE POLICIES WITHOUT DUE PROCESS OF LAW; PROHIBITING POLITICAL SUBDIVISIONS FROM DELEGATING CONSTITUTIONAL AUTHORITY TO OR PARTICIPATING IN CERTAIN ENTITIES; PROHIBITING POLITICAL SUBDIVISIONS FROM ADOPTING CERTAIN RESOLUTIONS, POLICIES, OR ORDINANCES; PROVIDING AN APPROPRIATION; PROVIDING DEFINITIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the Legislature affirms the commitment of the state's political subdivisions to provide for the protection of private property rights; and

WHEREAS, the Legislature affirms the commitment of the state's political subdivisions not to adopt resolutions, ordinances, or policies that infringe or restrict private property rights without due process of law; and

WHEREAS, the Legislature recognizes the supremacy of and the need to preserve the U.S. Constitution as the basis of law in the United States; and

WHEREAS, the Legislature recognizes the supremacy of and the need to preserve the Montana Constitution as the basis of law in the state.

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

NEW SECTION. **Section 1. Local control of constitutional authority.** (1) A political subdivision of this state:

(a) shall maintain local control of its constitutionally delegated authority. The political subdivision may not delegate its constitutional authority to a nongovernmental organization or a council of government.

(b) shall refuse participation in and refute any claimed legal authority of any national or international organizations that attempt to circumvent or negate the authority of the U.S. constitution and the Montana constitution; and

(c) may not adopt a resolution, ordinance, or policy that places participation or membership in an organization, movement, or group above unalienable constitutionally recognized individual rights and liberties.



1 (2) A political subdivision of the state may not participate in a council of government.

2 (3) As used in this section, "council of government" means a regional body, not authorized in Montana
3 law, that:

4 (a) is defined to serve an area of several counties;

5 (b) draws its membership from the governmental bodies in its area; and

6 (c) exercises legal authority normally conducted by individual local government bodies.

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8 **NEW SECTION. Section 2. Restriction of property rights -- due process requirement.** (1) A
9 political subdivision of the state shall ensure that a land use policy, such as a growth policy, future development
10 plan, zoning ordinance, or other land use plan, does not restrict private property rights without due process of law.

11 (2) As used in this section, "property rights" means an owner's rights to possess, use, and dispose of
12 property.

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14 **NEW SECTION. Section 3. Appropriation.** There is appropriated \$100 from the general fund to the
15 department of commerce to notify political subdivisions of the state of the requirements of [sections 1 and 2].

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17 **NEW SECTION. Section 4. Codification instruction.** (1) [Section 1] is intended to be codified as an
18 integral part of Title 7, chapter 5, part 1, and the provisions of Title 7, chapter 5, part 1, apply to [section 1].

19 (2) [Section 2] is intended to be codified as an integral part of Title 76, and the provisions of Title 76 apply
20 to [section 2].

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22 **NEW SECTION. Section 5. Severability.** If a part of [this act] is invalid, all valid parts that are severable
23 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part
24 remains in effect in all valid applications that are severable from the invalid applications.

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

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