

HOUSE BILL NO. 728  
INTRODUCED BY B. MCCHESENEY

A BILL FOR AN ACT ENTITLED: "AN ACT ~~REQUIRING~~ ALLOWING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO ENTER INTO TERM CONTRACTS OR CONTRACT TASK ORDERS UNDER TERM CONTRACTS FOR SERVICES TO EXPEDITE CERTAIN PERMIT APPLICATION REVIEWS; AMENDING SECTION 82-4-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Contracts for permit review services. (1) In order to expedite review of applications for permits, certificates, and licenses under Title 75, chapters 2, 5, 10, and 20, and Title 82, chapter 4, the department of environmental quality ~~shall, as provided in subsection (2),~~ MAY enter into term contracts, as defined in 18-4-301, OR CONTRACT TASK ORDERS UNDER TERM CONTRACTS for review services.

(2) The department ~~shall~~ MAY retain a contractor subject to a term contract, ~~pursuant to subsection (1),~~ to assist the department in all or a portion of the review of an application for a permit, certificate, or license if BOTH OF THE FOLLOWING OCCUR:

(a) an applicant for a permit, certificate, or license requests that the department contract for the application review services and the applicant agrees in writing to pay the department's contract costs; ~~and~~ PRIOR TO OBTAINING OR MODIFYING CONTRACTED APPLICATION REVIEW SERVICES FOR AN APPLICANT, THE DEPARTMENT SHALL CONSULT WITH THE APPLICANT REGARDING THE SCOPE AND COST OF THE SERVICES.

(b) the department determines that contracting for all or a portion of the review of an application would significantly expedite the application review process.

(3) If the department retains a contractor subject to a term contract pursuant to subsection (2), the department shall prepare a list of no fewer than four contractors acceptable to the department and shall provide the applicant with a copy of the list. If fewer than four acceptable contractors are available, the department shall include all acceptable contractors on the list. The applicant shall provide the agency with a list of at least 50% of the contractors from the agency's list. The agency shall select its contractor from the list provided by the applicant. THE DEPARTMENT MAY NOT RETAIN A CONTRACTOR TO REVIEW AN APPLICATION THAT THE CONTRACTOR HAS HELPED TO PREPARE OR TO REVIEW AN APPLICATION FROM AN APPLICANT WITH WHICH THE CONTRACTOR HAS ANY ECONOMIC TIES.

(4) The department retains ultimate responsibility for determining whether an application for a permit, certificate, or license is sufficient and whether to grant or deny the application.

(5) INFORMATION THAT IS IN THE CUSTODY OF A CONTRACTOR AND THAT IS USED FOR REVIEW SERVICES PURSUANT TO SUBSECTION (2) MUST BE MADE AVAILABLE BY THE DEPARTMENT FOR PUBLIC INSPECTION UNLESS THE INFORMATION IS CONSTITUTIONALLY PROTECTED FROM DISCLOSURE.

**Section 2.** Section 82-4-205, MCA, is amended to read:

**"82-4-205. Administration by department and board.** (1) The department:

(a) shall exercise general supervision, administration, and enforcement of this part and all rules and orders adopted under this part;

(b) shall review for approval or disapproval all plans and specifications submitted by an operator for the method of operation, subsidence stabilization, water control, backfilling, grading, highwall reduction, and topsoiling and for the reclamation of the area of land affected by the operator's operation;

(c) shall issue orders requiring an operator to adopt the remedial measures necessary to comply with this part and rules adopted under this part;

(d) shall order the suspension of any permit for failure to comply with this part or a rule adopted under this part;

(e) shall issue an order revoking a permit when the requirements set forth by a notice of violation, order of suspension, or order requiring remedial measures have not been complied with according to the terms in the notice or order;

(f) shall order the halting of any operation that is started without first having obtained a permit as required by this part or order the cessation of operations not in compliance with this part in accordance with 82-4-251;

(g) shall conduct public hearings required under this part or rules adopted by the board;

(h) shall conduct investigations and inspections necessary to ensure compliance with this part; ~~and~~

~~(i) shall~~ MAY contract for permit review services as provided in [section 1]; and

~~(j)~~ (i) may encourage and conduct investigations, research, experiments, and demonstrations and collect and disseminate information relating to strip mining and to underground mining and reclamation of lands and waters affected by strip mining and underground mining.

(2) The board shall conduct contested case hearings under this part."

NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an

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

NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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