

1 HOUSE BILL NO. 527

2 INTRODUCED BY F. NAVE

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO PLANNING AND
 5 ZONING DISTRICTS; ~~REQUIRING THE SUBMISSION OF DRAFT PROPOSALS OF DEVELOPMENT~~
 6 ~~PATTERNS AND ZONING REGULATIONS BEFORE DETERMINING THE NUMBER OF PETITIONS~~
 7 ~~NECESSARY TO CREATE A CITIZEN INITIATED ZONING DISTRICT; EXTENDING THE PERIOD TO~~
 8 ~~PROTEST THE CREATION OF A PLANNING AND ZONING DISTRICT; REQUIRING THE SUBMITTAL OF~~
 9 ~~DRAFT RESOLUTIONS TO THE BOARD OF COUNTY COMMISSIONERS; PROHIBITING ZONING~~
 10 ~~REGULATIONS FROM REGULATING MINERALS OR MINERAL RIGHTS; PROVIDING THAT PETITIONERS~~
 11 ~~ARE LIABLE FOR EXTRA COSTS RELATED TO THE VALIDATION OF SIGNATURES OF MINERAL~~
 12 ~~RIGHTS OWNERS; AND AMENDING SECTION SECTIONS 76-2-101, 76-2-109, AND 82-11-112, MCA; AND~~
 13 ~~PROVIDING AN IMMEDIATE EFFECTIVE DATE.~~"

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16
 17 **Section 1.** Section 76-2-101, MCA, is amended to read:

18 **"76-2-101. Planning and zoning commission and district.** (1) ~~(a)~~ Subject to the provisions of
 19 ~~subsection~~ subsections (5) and (6), whenever the public interest or convenience may require and upon petition
 20 of 60% of the affected real property owners in the proposed district, the board of county commissioners may
 21 create a planning and zoning district and may appoint a planning and zoning commission consisting of up to
 22 seven members.

23 ~~(b) If the affected real property owners as provided in subsection (1)(a) are determined to include~~
 24 ~~owners of mineral rights in the proposed district, the petitioners are liable for any additional costs necessary to~~
 25 ~~collect and verify the names and addresses of the owners of mineral rights if the county does not already have~~
 26 ~~the information readily available.~~

27 (2) A planning and zoning district may not be created in an area that has been zoned by an
 28 incorporated city pursuant to 76-2-310 and 76-2-311.

1 (3) For the purposes of this part, the word "district" means any area that consists of not less than 40
2 acres.

3 (4) Except as provided in subsection (5), an action challenging the creation of a planning and zoning
4 district must begin within 6 months after the date of the order by the board of county commissioners creating
5 the district.

6 (5) If real property owners representing 50% of the titled property ownership in the district protest the
7 establishment of the district within ~~30~~ 90 days of its creation, the board of county commissioners may not create
8 the district. An area included in a district protested under this subsection may not be included in a zoning district
9 petition under this section for a period of 1 year.

10 (6) (a) Before the board of county commissioners determines whether the number of affected real
11 property owners necessary to meet the petition requirement of subsection (1) has been met, draft documents of
12 the proposed materials that may potentially govern the proposed district must be made available to the board of
13 county commissioners. Draft documents of the proposed materials required in this subsection (6) may include
14 but are not limited to drafts of:

15 (i) a development pattern as provided in 76-2-104;

16 (ii) a resolution as provided in 76-2-107; and

17 (iii) the land use and zoning regulations as provided in 76-2-107.

18 ~~(b) The board of county commissioners shall use the draft documents provided as required in~~
19 ~~subsection (6)(a) to determine the real property owners in the district that qualify as affected property owners~~
20 ~~pursuant to subsection (1).~~

21 ~~(e)(B) The final adopted development pattern, resolutions, and other materials that govern the zoning~~
22 ~~district as required in 76-2-104 and 76-2-107 must be substantially similar to the draft documents provided to~~
23 ~~the county commissioners as required in subsection (6)(a)."~~

24

25 **SECTION 2. SECTION 76-2-109, MCA, IS AMENDED TO READ:**

26 **"76-2-109. Effect on natural resources. (1) No planning district or recommendations-Regulations**
27 **adopted under this part shall may not regulate lands used for grazing, horticulture, agriculture, or the growing of**
28 **timber, or the complete use, development, or recovery of any mineral.**

1 (2) (a) A provision of this part may not be construed to alter law regarding the primacy of the mineral
2 estate, to limit access to the mineral estate, or to limit development of the mineral estate.

3 (b) A resolution or rule adopted pursuant to the provisions of this part may not prevent the complete
4 use, development, or recovery of any mineral that is under the jurisdiction of the board of oil and gas
5 conservation pursuant to Title 82, chapter 11, part 1."

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7 **SECTION 3. SECTION 82-11-112, MCA, IS AMENDED TO READ:**

8 **"82-11-112. Intergovernmental cooperation. The Subject to 76-2-109, the board may cooperate**
9 **with any other state, interstate, or federal agency and other governmental agencies of the state to effect the**
10 **objects and purposes of this chapter and expend such funds as may be reasonably necessary in connection**
11 **therewith."**

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13 **NEW SECTION. Section 4. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.**

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