

SENATE BILL NO. 293

INTRODUCED BY B. TUTVEDT

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A SUBDIVIDER TO SUBMIT INFORMATION REGARDING WHETHER A PROPOSED SUBDIVISION'S WATER AND WASTEWATER SYSTEMS WILL BE UNDER THE PUBLIC SERVICE COMMISSION'S JURISDICTION; AND AMENDING SECTION 76-3-622, MCA."

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

**Section 1.** Section 76-3-622, MCA, is amended to read:

**"76-3-622. Water and sanitation information to accompany preliminary plat.** (1) Except as provided

in subsection (2), the subdivider shall submit to the governing body or to the agent or agency designated by the governing body the information listed in this section for proposed subdivisions that will include new water supply or wastewater facilities. The information must include:

(a) a vicinity map or plan that shows:

(i) the location, within 100 feet outside of the exterior property line of the subdivision and on the proposed lots, of:

- (A) flood plains;
- (B) surface water features;
- (C) springs;
- (D) irrigation ditches;
- (E) existing, previously approved, and, for parcels less than 20 acres, proposed water wells and wastewater treatment systems;
- (F) for parcels less than 20 acres, mixing zones identified as provided in subsection (1)(g); and
- (G) the representative drainfield site used for the soil profile description as required under subsection (1)(d); and

(ii) the location, within 500 feet outside of the exterior property line of the subdivision, of public water and sewer facilities;

(b) a description of the proposed subdivision's water supply systems, storm water systems, solid waste disposal systems, and wastewater treatment systems, including:



1           (i) whether the water supply and wastewater treatment systems are individual, shared, multiple user, or  
2 public as those systems are defined in rules published by the department of environmental quality; and

3           (ii) if the water supply and wastewater treatment systems are shared, multiple user, or public, a statement  
4 of whether the systems will be public utilities as defined in 69-3-101 and subject to the jurisdiction of the public  
5 service commission or exempt from public service commission jurisdiction and, if exempt, an explanation for the  
6 exemption;

7           (c) a drawing of the conceptual lot layout at a scale no smaller than 1 inch equal to 200 feet that shows  
8 all information required for a lot layout document in rules adopted by the department of environmental quality  
9 pursuant to 76-4-104;

10           (d) evidence of suitability for new onsite wastewater treatment systems that, at a minimum, includes:

11           (i) a soil profile description from a representative drainfield site identified on the vicinity map, as provided  
12 in subsection (1)(a)(i)(G), that complies with standards published by the department of environmental quality;

13           (ii) demonstration that the soil profile contains a minimum of 4 feet of vertical separation distance between  
14 the bottom of the permeable surface of the proposed wastewater treatment system and a limiting layer; and

15           (iii) in cases in which the soil profile or other information indicates that ground water is within 7 feet of the  
16 natural ground surface, evidence that the ground water will not exceed the minimum vertical separation distance  
17 provided in subsection (1)(d)(ii);

18           (e) for new water supply systems, unless cisterns are proposed, evidence of adequate water availability:

19           (i) obtained from well logs or testing of onsite or nearby wells;

20           (ii) obtained from information contained in published hydrogeological reports; or

21           (iii) as otherwise specified by rules adopted by the department of environmental quality pursuant to  
22 76-4-104;

23           (f) evidence of sufficient water quality in accordance with rules adopted by the department of  
24 environmental quality pursuant to 76-4-104;

25           (g) a preliminary analysis of potential impacts to ground water quality from new wastewater treatment  
26 systems, using as guidance rules adopted by the board of environmental review pursuant to 75-5-301 and  
27 75-5-303 related to standard mixing zones for ground water, source specific mixing zones, and nonsignificant  
28 changes in water quality. The preliminary analysis may be based on currently available information and must  
29 consider the effects of overlapping mixing zones from proposed and existing wastewater treatment systems within  
30 and directly adjacent to the subdivision. Instead of performing the preliminary analysis required under this

1 subsection (1)(g), the subdivider may perform a complete nondegradation analysis in the same manner as is  
2 required for an application that is reviewed under Title 76, chapter 4.

3 (2) A subdivider whose land division is excluded from review under 76-4-125(2) is not required to submit  
4 the information required in this section.

5 (3) A governing body may not, through adoption of regulations, require water and sanitation information  
6 in addition to the information required under this section unless the governing body complies with the procedures  
7 provided in 76-3-511."

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