

1 HOUSE BILL NO. 40

2 INTRODUCED BY J. FITZPATRICK

3 BY REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A SPECIAL REVENUE ACCOUNT FOR
6 REVIEW OF PUBLIC WATER SUPPLY OR PUBLIC SEWAGE SYSTEM PLANS AND SPECIFICATIONS;
7 AMENDING SECTIONS 75-6-104, 75-6-108, AND 75-6-115, MCA; AND PROVIDING AN EFFECTIVE DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 NEW SECTION. **Section 1. Plan review special revenue account.** (1) There is a plan review
12 special revenue account within the state special revenue fund established in 17-2-102.

13 (2) There must be credited to the account the revenue from fees assessed, collected, and
14 allocated pursuant to 75-6-108(3).

15 (3) Funds from the account may be used only to pay department costs in implementing plan and
16 specification review, as described in this part.

17
18 **Section 2.** Section 75-6-104, MCA, is amended to read:

19 **"75-6-104. Duties of department.** (1) The department has general supervision over all state waters
20 that are directly or indirectly being used by a person for a public water supply system, for domestic purposes, or
21 as a source of ice.

22 (2) The department shall, subject to the provisions of 75-6-116 and as provided in 75-6-131, adopt
23 rules and standards concerning:

24 (a) maximum contaminant levels for waters that are or will be used for a public water supply
25 system;

26 (b) fees, as described in 75-6-108, for services rendered by the department;

27 (c) monitoring, recordkeeping, and reporting by persons who own or operate public water supply
28 systems;

- 1 (d) requiring public notice to all users of a public water supply system when a person has been
2 granted a variance or exemption or is in violation of this part or a rule or order issued pursuant to this part;
- 3 (e) the siting, construction, operation, and modification of a public water supply system or public
4 sewage system, including requirements to remedy:
- 5 (i) defects in the design, operation, or maintenance of a public water supply system or public
6 sewage system in order to prevent or correct introduction of contamination into water used for a public water
7 supply system, for domestic purposes, or as a source of ice;
- 8 (ii) fecal contamination in water used by a public water supply system; or
- 9 (iii) failure or malfunction of the sources, treatment, storage, or distribution portion of a public water
10 supply system in order to prevent or correct introduction of contamination into water used for a public water
11 supply system, for domestic purposes, or as a source of ice;
- 12 (f) the review of the technical, managerial, and financial capacity of a proposed public water
13 supply system or public sewage system, as necessary to ensure the capability of the system to meet the
14 requirements of this part;
- 15 (g) the collection and analysis of samples of water used for drinking or domestic purposes;
- 16 (h) the issuance of variances and exemptions as authorized by the federal Safe Drinking Water Act
17 and this part;
- 18 (i) administrative enforcement procedures and administrative penalties authorized under this part;
- 19 (j) standards and requirements for the review and approval of programs that may be voluntarily
20 submitted by suppliers of public water supply systems to prevent water supply contamination from a cross-
21 connection, including provisions to exempt cross-connections from the standards and requirements if all
22 connected systems are department-approved public water supply systems;
- 23 (k) (i) allowable uses of reclaimed wastewater and classification of those uses;
- 24 (ii) treatment, monitoring, recordkeeping, and reporting standards and requirements tailored to
25 each classification that must be met by the public sewage system to protect the uses of the reclaimed
26 wastewater and any receiving water;
- 27 (iii) prohibition of reclaimed wastewater uses that are not allowable under subsection (2)(k)(i) or for
28 which the reclaimed wastewater has not been treated in compliance with rules adopted under subsection

1 (2)(k)(ii); and

2 (iv) a requirement that an applicant who proposes to use reclaimed wastewater pursuant to this
3 subsection (2)(k) has obtained any necessary authorizations required under Title 85 from the department of
4 natural resources and conservation; and

5 (l) any other requirement necessary for the protection of public health as described in this part.

6 (3) Department rules must provide for the following:

7 (a) except as provided in 75-6-131, a water supply or water distribution facility reviewed and
8 approved by the department is not subject to changes in department design and construction criteria for a
9 period of 36 months after written approval of the facility is issued by the department;

10 (b) except for facilities subject to permit requirements under Title 75, chapter 5, part 4, and except
11 as provided under rules adopted pursuant to 75-6-131, a system of water supply, drainage, wastewater, or
12 sewage reviewed and approved under this section is not subject to changes in department design or
13 construction criteria for a period of 36 months after written approval is issued by the department;

14 (c) plans and specifications for a portion of a facility or system subject to a 36-month limit on
15 criteria changes pursuant to subsections (3)(a) and (3)(b) but not constructed within the 36-month timeframe
16 must be resubmitted for department review and approval before construction of that portion of the facility;

17 (d) the provisions of this subsection (3) may not limit an applicant's ability to alter a proposed
18 project that is otherwise in conformance with applicable laws, rules, standards, and criteria; and

19 (e) department approval of development plans for a municipal system that allows additional
20 connections above the approved rated capacity of a water or wastewater system pursuant to 75-6-130.

21 (4) The department or the board may issue orders necessary to fully implement the provisions of
22 this part.

23 (5) The department shall:

24 (a) on its own initiative or complaint to the department, to the mayor or health officer of a
25 municipality, or to the managing board or officer of a public institution, make an investigation of alleged pollution
26 of a water supply system and, if required, prohibit the continuance of the pollution by ordering removal of the
27 cause of pollution;

28 (b) have waters examined to determine their quality and the possibility that they may endanger

1 public health;

2 (c) consult and advise authorities of cities and towns and persons having or about to construct
3 systems for water supply, drainage, wastewater, and sewage as to the most appropriate source of water supply
4 and the best method of ensuring its quality;

5 (d) advise persons as to the best method of treating and disposing of their drainage, sewage, or
6 wastewater with reference to the existing and future needs of other persons and to prevent pollution;

7 (e) consult with persons engaged in or intending to engage in manufacturing or other business
8 whose drainage or sewage may tend to pollute waters as to the best method of preventing pollution;

9 (f) collect fees, as described in 75-6-108, for services and deposit;

10 (i) the public drinking water fees collected in the public drinking water special revenue fund
11 established in 75-6-115; and

12 (ii) the plan and specification review fees collected in the plan review special revenue account
13 established in [section 1];

14 (g) establish and maintain experiment stations and conduct experiments to study the best methods
15 of treating water, drainage, wastewater, and sewage to prevent pollution, including investigation of methods
16 used in other states;

17 (h) enter on premises at reasonable times to determine sources of pollution or danger to water
18 supply systems and whether rules and standards of the department are being obeyed;

19 (i) enforce and administer the provisions of this part;

20 (j) establish a plan for the provision of safe drinking water under emergency circumstances;

21 (k) maintain an inventory of public water supply systems and establish a program for conducting
22 sanitary surveys;

23 (l) enter into agreements with local boards of health whenever appropriate for the performance of
24 surveys and inspections under the provisions of this part; and

25 (m) review in the form of a written response within 60 days to an applicant seeking approval for use
26 of reclaimed wastewater for snowmaking subject to subsection (2)(k) that:

27 (i) approves, approves with conditions, or denies the application pursuant to the provisions of this
28 part; and

(ii) (A) describes additional information that must be submitted prior to department approval under subsection (5)(m)(i); or

(B) describes any additional requirements that the applicant must satisfy prior to department approval under subsection (5)(m)(i), such as a permit to discharge under Title 75, chapter 5, part 4, or an authorization under Title 85 from the department of natural resources and conservation."

Section 3. Section 75-6-108, MCA, is amended to read:

"75-6-108. Department to prescribe fees -- opportunity for appeal. (1) The department shall by rule prescribe fees to be assessed annually on owners of public water supply systems to recover department costs in providing services under this part. The annual fee for a public water supply system is no more than \$2.25 for each service connection to the public water supply system for the biennium beginning July 1, 1991, and ending June 30, 1993, and thereafter is no more than \$2 for each service connection to the public water supply system, although the minimum fee for any system is \$100, except that the fee for a transient noncommunity water system is \$50.

(2) Public water supply systems in a municipality may raise the rates to recover costs associated with the fees prescribed in this section without the public hearing required in 69-7-111.

(3) The department shall by rule prescribe fees assessed on persons who submit plans and specifications or development plans for construction, alteration, or extension of a public water supply system or public sewage system. The fees must be commensurate with the cost to the department of reviewing the plans and specifications.

(4) Fees collected pursuant to ~~this section~~ subsection (1) must be deposited in the public drinking water special revenue fund established in 75-6-115.

(5) Fees collected pursuant to subsection (3) must be deposited in the plan review special revenue account established in [section 1].

~~(5)(6)~~ (a) The department shall notify the owner of a public water supply system in writing of the amount of the fee to be assessed and the basis for the assessment. The owner may appeal the fee assessment in writing to the board within 20 days after receipt of the written notice.

(b) An appeal must be based on the allegation that the fee is erroneous or excessive. An appeal

1 may not be based only on the fee schedule adopted by the department.

2 (c) If any part of the fee assessment is not appealed, it must be paid to the department on receipt
3 of the notice provided for in subsection ~~(5)(a)~~ (6)(a)."

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5 **Section 4.** Section 75-6-115, MCA, is amended to read:

6 **"75-6-115. Public drinking water special revenue fund.** (1) There is a public drinking water special
7 revenue fund within the state special revenue fund established in 17-2-102.

8 (2) There must be credited to the public drinking water special revenue fund the revenue from fees
9 assessed, collected, and allocated pursuant to ~~75-6-108~~ 75-6-108(4). Funds from the public drinking water
10 special revenue fund may be used only to pay department costs in implementing the public drinking water
11 supply program, as described in this part."

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13 NEW SECTION. **Section 5. Codification instruction.** [Section 1] is intended to be codified as an
14 integral part of Title 75, chapter 6, part 1, and the provisions of Title 75, chapter 6, part 1, apply to [section 1].

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16 NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 2025.

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