AN ACT REQUIRING AN APPEAL PROCESS FROM CERTAIN REQUIREMENTS FOR A SEWAGE DISPOSAL SYSTEM; AND AMENDING SECTION 50-2-116, MCA."

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

Section 1. Section 50-2-116, MCA, is amended to read:

"**50-2-116. Powers and duties of local boards of health.** (1) Except as provided in subsection (5), in order to carry out the purposes of the public health system, in collaboration with federal, state, and local partners, each local board of health shall:

(a) recommend to the governing body the appointment of a local health officer who is:

(i) a physician;

(ii) a person with a master's degree in public health; or

(iii) a person with equivalent education and experience, as determined by the department;

(b) elect a presiding officer and other necessary officers;

(c) adopt bylaws to govern meetings;

(d) hold regular meetings at least quarterly and hold special meetings as necessary;

(e) identify, assess, prevent, and ameliorate conditions of public health importance through:

(i) epidemiological tracking and investigation;

(ii) screening and testing;

(iii) isolation and quarantine measures;

(iv) diagnosis, treatment, and case management;

(v) abatement of public health nuisances;

(vi) inspections;

(vii) collecting and maintaining health information;

(viii) education and training of health professionals; or

(ix) other public health measures as allowed by law;

(f) protect the public from the introduction and spread of communicable disease or other conditions of public health importance, including through actions to ensure the removal of filth or other contaminants that might cause disease or adversely affect public health;

(g) supervise or make inspections for conditions of public health importance and issue written orders for compliance or for correction, destruction, or removal of the conditions;

(h) bring and pursue actions and issue orders necessary to abate, restrain, or prosecute the violation of public health laws, rules, and local regulations;

(i) identify to the department an administrative liaison for public health. The liaison must be the local health officer in jurisdictions that employ a full-time local health officer. In jurisdictions that do not employ a full-time local health officer, the liaison must be the highest ranking public health professional employed by the jurisdiction.

(j) subject to the provisions of 50-2-130, propose for adoption by the local governing body necessary regulations that are not less stringent than state standards for the control and disposal of sewage from private and public buildings and facilities that are not regulated by Title 75, chapter 6, or Title 76, chapter 4. The regulations must describe standards for granting variances from the minimum requirements that are identical to standards promulgated by the department of environmental quality and must provide for appeal of variance decisions to the department of environmental quality as required by 75-5-305. The regulations must provide for an appeal to challenge whether permit requirements are more stringent than the state standards or local standards adopted in compliance with 50-2-130. Until an appeals process is included in the regulations, the applicant or property owner may appeal to the local governing body. If the local board of health regulates or permits water well drilling, the regulations must prohibit the drilling of a well if the well isolation zone, as defined in 76-4-102, encroaches onto adjacent private property without the authorization of the private property owner.

(2) Local boards of health may:

(a) accept and spend funds received from a federal agency, the state, a school district, or other persons or entities;

(b) propose for adoption by the local governing body necessary fees to administer regulations for

the control and disposal of sewage from private and public buildings and facilities;

(c) propose for adoption by the local governing body regulations that do not conflict with 50-50-126 or rules adopted by the department:

(i) for the control of communicable diseases;

(ii) for the removal of filth that might cause disease or adversely affect public health;

(iii) subject to the provisions of 50-2-130, for sanitation in public and private buildings and facilities that affects public health and for the maintenance of sewage treatment systems that do not discharge effluent directly into state water and that are not required to have an operating permit as required by rules adopted under 75-5-401;

(iv) subject to the provisions of 50-2-130 and Title 50, chapter 48, for tattooing and body-piercing establishments and that are not less stringent than state standards for tattooing and body-piercing establishments;

(v) for the establishment of institutional controls that have been selected or approved by the:

(A) United States environmental protection agency as part of a remedy for a facility under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601, et seq.; or

(B) department of environmental quality as part of a remedy for a facility under the Montana Comprehensive Environmental Cleanup and Responsibility Act, Title 75, chapter 10, part 7; and

(vi) to implement the public health laws;

(d) adopt rules necessary to implement and enforce regulations adopted by the local governing body; and

(e) promote cooperation and formal collaborative agreements between the local board of health and tribes, tribal organizations, and the Indian health service regarding public health planning, priority setting, information and data sharing, reporting, resource allocation, service delivery, jurisdiction, and other matters addressed in this title.

(3) A local board of health may provide, implement, facilitate, or encourage other public health services and functions as considered reasonable and necessary.

(4) A directive, mandate, or order issued by a local board of health in response to a declaration of

emergency or disaster by the governor as allowed in 10-3-303 or by the principal executive officer of a political subdivision as allowed in 10-3-402 and 10-3-403:

(a) remains in effect only during the declared state of emergency or disaster or until the governing body holds a public meeting and allows public comment and the majority of the governing body moves to amend, rescind, or otherwise change the directive, mandate, or order; and

(b) may not interfere with or otherwise limit, modify, or abridge a person's physical attendance at or operation of a religious facility, church, synagogue, or other place of worship.

(5) A regulation allowed in subsection (2)(c)(i), (2)(c)(ii), or (2)(c)(vi) adopted or a directive, mandate, or order implemented to carry out the provisions of this part that applies to the entire jurisdictional area of a town, city, or county under the jurisdiction of the local health board may not:

(a) compel a private business to deny a customer of the private business access to the premises or access to goods or services;

(b) deny a customer of a private business the ability to access goods or services provided by the private business; or

(c) include any of the following actions for noncompliance of actions described in subsections (5)(a) and (5)(b):

(i) require the assessment of a fee or fine;

(ii) require the revocation of a license required for the operation of a private business;

(iii) find a private business owner guilty of a misdemeanor; or

(iv) bring any other retributive action against a private business owner, including but not limited to an action allowed under 50-2-123, a penalty allowed under 50-2-124, or any other criminal charge.

(6) The prohibition provided for in subsection (5)(b) does not apply to persons confirmed to have a communicable disease and who are currently under a public isolation order.

(7) The prohibitions provided for in subsection (5) do not restrict a local board of health from exercising its authority under this section to enforce and ensure compliance by private businesses with all lawfully adopted regulations, directives, and orders.

(8) As used in this section, "private business" means an individual or entity that is not principally a part of or associated with a government unit. The term includes but is not limited to a nonprofit or for-profit

entity, a corporation, a sole proprietorship, or a limited liability company."

Section 2. Coordination instruction. If both House Bill No. 180 and [this act] are passed and approved and if both contain a section that amends 50-2-116, then the sections amending 50-2-116 are void and 50-2-116 must be amended as follows:

"**50-2-116. Powers and duties of local boards of health.** (1) Except as provided in subsection (5), in order to carry out the purposes of the public health system, in collaboration with federal, state, and local partners, each local board of health shall:

(a) recommend to the governing body the appointment of a local health officer who is:

(i) a physician;

(ii) a person with a master's degree in public health; or

(iii) a person with equivalent education and experience, as determined by the department;

(b) elect a presiding officer and other necessary officers;

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(d) hold regular meetings at least quarterly and hold special meetings as necessary;

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(i) epidemiological tracking and investigation;

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(viii) education and training of health professionals; or

(ix) other public health measures as allowed by law;

(f) protect the public from the introduction and spread of communicable disease or other conditions of public health importance, including through actions to ensure the removal of filth or other contaminants that might cause disease or adversely affect public health;

(g) supervise or make inspections for conditions of public health importance and issue written orders for compliance or for correction, destruction, or removal of the conditions;

(h) bring and pursue actions and issue orders necessary to abate, restrain, or prosecute the violation of public health laws, rules, and local regulations;

(i) identify to the department an administrative liaison for public health. The liaison must be the local health officer in jurisdictions that employ a full-time local health officer. In jurisdictions that do not employ a full-time local health officer, the liaison must be the highest ranking public health professional employed by the jurisdiction.

(j) subject to the provisions of 50-2-130, propose for adoption by the local governing body necessary regulations that are not less stringent than state standards for the control and disposal of sewage from private and public buildings and facilities that are not regulated by Title 75, chapter 6, or Title 76, chapter 4. The regulations must:

(i) describe standards for granting variances from the minimum requirements that are identical to standards promulgated by the department of environmental quality and must provide for appeal of variance decisions to the department of environmental quality as required by 75-5-305;

(ii) provide for an appeal to challenge whether permit requirements are more stringent than the state standards or local standards adopted in compliance with 50-2-130. Until an appeals process is included in the regulations, the applicant or property owner may appeal to the local governing body.

(iii) for parcels created after March 30, 2011, prohibit the construction of a subsurface wastewater treatment system if the associated mixing zone would encroach onto adjacent property, except as allowed in 76-4-104(7)(i); and

(iv) ~~If~~ if the local board of health regulates or permits water well drilling, ~~the regulations must~~ prohibit the drilling of a well if the well isolation zone, as defined in 76-4-102, encroaches onto adjacent private property without the authorization of the private property owner.

(2) Local boards of health may:

(a) accept and spend funds received from a federal agency, the state, a school district, or other persons or entities;

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(i) for the control of communicable diseases;

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(iii) subject to the provisions of 50-2-130, for sanitation in public and private buildings and facilities that affects public health and for the maintenance of sewage treatment systems that do not discharge effluent directly into state water and that are not required to have an operating permit as required by rules adopted under 75-5-401;

(iv) subject to the provisions of 50-2-130 and Title 50, chapter 48, for tattooing and body-piercing establishments and that are not less stringent than state standards for tattooing and body-piercing establishments;

(v) for the establishment of institutional controls that have been selected or approved by the:

(A) United States environmental protection agency as part of a remedy for a facility under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601, et seq.; or

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(vi) to implement the public health laws;

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emergency or disaster by the governor as allowed in 10-3-303 or by the principal executive officer of a political subdivision as allowed in 10-3-402 and 10-3-403:

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(b) may not interfere with or otherwise limit, modify, or abridge a person's physical attendance at or operation of a religious facility, church, synagogue, or other place of worship.

(5) A regulation allowed in subsection (2)(c)(i), (2)(c)(ii), or (2)(c)(vi) adopted or a directive, mandate, or order implemented to carry out the provisions of this part that applies to the entire jurisdictional area of a town, city, or county under the jurisdiction of the local health board may not:

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(7) The prohibitions provided for in subsection (5) do not restrict a local board of health from exercising its authority under this section to enforce and ensure compliance by private businesses with all lawfully adopted regulations, directives, and orders.

(8) As used in this section, "private business" means an individual or entity that is not principally a part of or associated with a government unit. The term includes but is not limited to a nonprofit or for-profit

entity, a corporation, a sole proprietorship, or a limited liability company."

Section 3. Coordination instruction. If both House Bill No. 658 and [this act] are passed and approved and if House Bill No. 658 contains a section amending 50-2-130, then the reference to "or local standards adopted in compliance with 50-2-130" in [subsection (1)(j) of section 1 or 2 of this act], amending 50-2-116, must be removed.

- END -

I hereby certify that the within bill,

HB 318, originated in the House.

_____

Chief Clerk of the House

_____

Speaker of the House

Signed this _____day

of_____, 2025.

_____

President of the Senate

Signed this _____day
of_____, 2025.

HOUSE BILL NO. 318

INTRODUCED BY L. BREWSTER,

AN ACT REQUIRING AN APPEAL PROCESS FROM CERTAIN REQUIREMENTS FOR A SEWAGE DISPOSAL SYSTEM; AND AMENDING SECTION 50-2-116, MCA.