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SENATE BILL NO. 237

INTRODUCED BY S. VANCE, S. GUNDERSON, J. WELBORN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO WATER QUALITY; REQUIRING THAT DEVELOPMENT PLANS BE APPROVED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY BEFORE ADDITIONAL CONNECTIONS TO PUBLIC WATER AND WASTEWATER SYSTEMS MAY BE AUTHORIZED; REQUIRING THE APPROVAL OF A DEVELOPMENT PLAN BEFORE THE APPROVAL OF CERTAIN SUBDIVISIONS; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS AND REVISING A DEFINITION; AMENDING SECTIONS 75-6-104, 75-6-108, 76-3-507, AND 76-4-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Development plans -- department requirements -- rulemaking.** (1)

Unless authorized by a development plan approved by the department of environmental quality under this section, a public water or wastewater supply system may not certify or authorize additional connections to its water or wastewater system that would exceed its approved rated capacity.

(2) The department ~~may~~shall approve a municipal development plan to allow additional connections to a public water or wastewater supply system if the municipality demonstrates that:

- (a) the additional connections will not exceed the approved rated capacity of the system;
- (b) the additional connections will not create a risk to public health or the environment; and
- (c) the plan will not cause a violation of any provision of or rule adopted under this part or Title 75, chapter 5 or 6, or any condition or requirement of an approval or order issued pursuant to this part or Title 75, chapter 5 or 6.

(3) A municipality with a development plan approved under this section shall submit an annual report detailing its compliance with the approved plan to the department.

(4) A development plan approved under this section may be used by the department to approve connections that would exceed the system's approved rated capacity only if the connection would serve a

1 subdivision subject to review under Title 76, chapter 3, and the governing body has required department
2 certification before final plat approval in accordance with 76-3-507(5).

3 (5) The department may revoke or require modification of an approved development plan if:

4 (a) the conditions of development have fundamentally changed;

5 (b) the municipality has violated the requirements of this section or a condition of an approved
6 development plan; or

7 (c) the department otherwise determines that the conditions of subsection (2) have not been or will
8 not be satisfied.

9 (6) A municipality that violates this section or a condition of an approved development plan is
10 subject to penalties under 75-6-114.

11 (7) The department may adopt rules to implement this section.

12 (8) Nothing in this section requires a municipality to submit a development plan for review unless
13 the municipality intends to approve connections beyond the municipal system's rated capacity.

14 (9) As used in this section, the following definitions apply:

15 (a) "Development plan" means a planning document that outlines the current rated capacity of a
16 water or wastewater system and the system's proposed capacity after upgrades, marked by milestones of
17 construction activity as a percentage of existing capacity, are made to the system and includes a timeline for
18 when the design, bidding, and construction of upgrades to an existing system will be completed.

19 (b) "Rated capacity" means the gross capacity of a water or wastewater system as required by the
20 design standards provided for in Title 75, chapter 6, wastewater discharge permit limits set in Title 75, chapter
21 5, and water right limits required in Title 85.

22
23 **NEW SECTION. Section 2. Development plans -- exceptions.** (1) A reviewing authority may not
24 approve a subdivision under this chapter that is subject to a development plan approved under [section 1]
25 unless the subdivision is subject to the provisions of Title 76, chapter 3, and the governing body has required
26 department certification before final plat approval pursuant to 76-3-507(5).

27 (2) A certifying authority may not certify that a division under 76-4-125(1)(d) will be served by
28 adequate municipal facilities pursuant to a development plan approved under [section 1] unless the division is