

SENATE BILL NO. 10

INTRODUCED BY F. MANDEVILLE

BY REQUEST OF THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING TIMELINES RELATED TO ONSITE INSPECTION AND RECOMMENDATION OF DENIAL, APPROVAL, OR MODIFICATION OF AN EMERGENCY PROJECT WHEN THE GOVERNOR DECLARES A STATE OF EMERGENCY; REVISING THE NATURAL STREAMBED AND LAND PRESERVATION ACT OF 1975; AMENDING SECTION 75-7-113, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 75-7-113, MCA, is amended to read:

"75-7-113. Emergencies -- procedure. (1) The provisions of this part do not apply to those actions that are necessary to safeguard life or property, including growing crops, during periods of emergency. The person responsible for a-taking action under this section shall notify the supervisors in writing within 15 days of the action taken as a result of an emergency.

(2) The emergency notice given under subsection (1) must contain the following information:

- (a) the location of the action taken;
- (b) a general description of the action taken;
- (c) the date on which the action was taken; and
- (d) an explanation of the emergency causing the need for the action taken.

(3) If the supervisors determine that the action taken meets the definition of a project, the supervisors shall send one copy of the notice, within 5 working days of its receipt, to the department.

(4) (a) A-Except as provided in subsection (4)(b), a team, called together as described in 75-7-112(2), shall make an onsite inspection within 20 days of receipt of the emergency notice.

(b) If the governor declares a state of emergency pursuant to 10-3-303, the team shall make an onsite inspection within 30 days of receipt of the emergency notice.

1 (5) ~~(a) Each-Except as provided in subsection (5)(b), each~~ member of the team shall recommend
2 in writing, within 30 days of the date of the emergency notice, the member's denial, approval, or modification of
3 the project.

4 (b) If the governor declares a state of emergency pursuant to 10-3-303, each member of the team
5 shall recommend in writing, within 40 days of the date of the emergency notice, the member's denial, approval,
6 or modification of the project.

7 (6) The supervisors shall review the emergency project and affirm, overrule, or modify the
8 individual team recommendations and notify the applicant and team members of their decision within 60 days of
9 receipt of the emergency notice.

10 (7) A person who has undertaken an emergency action that is denied or modified shall submit
11 written notice, as provided in 75-7-111, to obtain approval pursuant to 75-7-112 to mitigate the damages to the
12 stream caused by the emergency action and to achieve a long-term solution, if feasible, to the emergency
13 situation. Notice under this subsection must be filed within 90 days after the supervisors' decision.

14 (8) (a) When a member of the team, other than an applicant, disagrees with the supervisors'
15 decision of an emergency action, the team member shall request that an arbitration panel, as provided for in
16 75-7-114, be appointed to hear the dispute and to make a final written decision on the dispute.

17 (b) When an applicant disagrees with the supervisors' decision, the applicant shall, within 30
18 working days of receipt of the supervisors' decision:

19 (i) agree to arbitration under this section and request that an arbitration panel, as provided for in
20 75-7-114, be appointed to hear the dispute and make a final written decision regarding the dispute; or

21 (ii) appeal the decision of the supervisors to the district court for the county where the project is
22 located.

23 (9) The failure of a person to perform the following subjects the person to civil and criminal
24 penalties under 75-7-123:

25 (a) failure to provide emergency notice under subsection (1);

26 (b) failure to submit a notice of the project under subsection (7); or

27 (c) failure to implement the terms of a supervisors' decision for the purpose of mitigating the
28 damage to the stream caused by the emergency action and of achieving a permanent solution, if feasible, to

1 the emergency situation."

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3 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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