

2021 MONTANA LEGISLATURE

WHITE PAPER

Montana Department of Environmental Quality

Water Quality Division

Engineering Bureau

SB44 Revise subdivision laws

Bill Number: SB44
Bill Name: Revise subdivision laws
Bill Sponsor: Senator John Esp

Bill Summary

SB 44 accomplishes five primarily goals:

- Clean up provisions that clarify what is a subdivision under the Act and ensure consistent application for the review of water, wastewater, and storm water throughout the Act.
- Ensure that property protections that were established in 2011 and 2013 apply to all new lots created under the Act including those that utilize the no-facilities exclusion at the time they are created. Those property protections ensure that well isolation zones and septic mixing zones cannot cross property lines and impact the ability of neighbors to use their property without an easement.
- Incentivize local reviews of subdivisions by allowing counties to cover the costs of their reviews through locally adopted fees.
- Provide clear notification to buyers who purchase property that has not yet been reviewed for water, wastewater, or storm water under the Act. This will help to ensure that buyers are not surprised after they purchase property that still needs to be reviewed before it can be developed.
- Expand the use of exemptions in order to reduce the number of unnecessary reviews.

DEQ is also working on amendments to SB 44 to address questions that have been raised after the bill was introduced. Those amendments include:

- Page 6, lines 18-21, strike the first two sentences of new (7) in their entirety.
- Page 8, line 6, strike “previously divided” and insert “subdivided”, after “with” insert “Parts 5 and 6 of”
- Pages 11 and 12, eliminate Section 10 from the bill.

Background

Since 2017, DEQ has proactively worked to make the subdivision review process under the Sanitation in Subdivisions Act, MCA Title 76 Chapter 4, more transparent and efficient while maintaining protections for public health, the environment, and neighboring properties.

SB 44 continues that progress and DEQ has been working with the Subdivision and Development Advisory Council on SB 44 for the last six months with the goal of providing additional clarity to the Sanitation in Subdivisions Act.

Impacted Communities/Industries

- Development community, Counties, Cities, and consulting engineers. All are represented on the Subdivision and Development Advisory Council.

Recommended Agency Action

DEQ proposed the legislation. As such, the legislation was sent to EQC for review and approval. EQC approved the legislation for pre-introduction.

Program Contacts

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