

1 SENATE BILL NO. 33

2 INTRODUCED BY G. HERTZ

3 BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING AUTHORITY AND RESPONSIBILITY FOR  
6 PLAN REVIEW, PERMITTING, INSPECTION, AND BUILDING CODE ENFORCEMENT FOR PUBLIC  
7 BUILDINGS OWNED OR OPERATED BY STATE ~~GOVERNMENT ENTITIES~~ AGENCIES TO THE  
8 DEPARTMENT OF LABOR AND INDUSTRY; AND AMENDING SECTION 50-60-106, MCA."

9

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

11

12 **Section 1.** Section 50-60-106, MCA, is amended to read:

13 **"50-60-106. Powers and duties of counties, cities, and towns.** (1) As Except as provided in  
14 subsection (6), as allowed by Title 50, chapter 60, part 3, the examination, approval, or disapproval of plans  
15 and specifications, the issuance and revocation of building permits, licenses, certificates, and similar  
16 documents, the inspection of buildings, and the administration and enforcement of building regulations within  
17 the limits of a city or town are the responsibility of the city or town. The Except as provided in subsection (6),  
18 the examination, approval, or disapproval of plans and specifications, the issuance and revocation of building  
19 permits, licenses, certificates, and similar documents, the inspection of buildings, and the administration and  
20 enforcement of building regulations within the portion of a county that is covered by a county building code  
21 enforcement program are the responsibility of the county.

22 (2) Each Except as provided in subsection (6), each county, city, or town certified under 50-60-302  
23 shall, within its jurisdictional area:

24 (a) examine, approve, or disapprove plans and specifications for the construction of any building,  
25 the construction of which is pursuant or purports to be pursuant to the applicable provisions of the state building  
26 code or county, city, or town building code, and direct the inspection of the buildings during and in the course of  
27 construction;

28 (b) require that construction of buildings be in accordance with the applicable provisions of the

1 state building code or county, city, or town building code, subject to the powers of variance or modification  
2 granted to the department;

3 (c) make available to building contractors at a price that is commensurate with reproduction costs  
4 a checklist devised by the department pursuant to 50-60-118 for single-family dwellings and provide to  
5 contractors who attach a completed checklist to the plans submitted for examination the relevant building permit  
6 or notice of plan disapproval within 10 working days of the contractor's submission;

7 (d) during and in the course of construction, order in writing the remedying of any condition found  
8 to exist in, on, or about any building that is being constructed in violation of the state building code or county,  
9 city, or town building code. Orders may be served upon the owner or the owner's authorized agent personally or  
10 by sending by certified mail a copy of the order to the owner or the owner's authorized agent at the address set  
11 forth in the application for permission for the construction of the building. A county, city, or town certified  
12 pursuant to 50-60-302, by action of its building official, may grant in writing time as may be reasonably  
13 necessary for achieving compliance with the order. For the purposes of subsection (2)(a) and this subsection  
14 (2)(d), the phrase "during and in the course of construction" refers to the construction of a building until all  
15 necessary building permits have been obtained and all work authorized by those permits has been fully  
16 approved by the building official having jurisdiction.

17 (e) issue certificates of occupancy as provided in 50-60-107;

18 (f) issue permits, licenses, and other required documents in connection with the construction of a  
19 building;

20 (g) ensure that all construction-related fees or charges imposed and collected by the county, city,  
21 or town are necessary, reasonable, and uniform and are:  
22 (i) except as provided in subsection (2)(g)(iii), used only for activities in support of reviewing and  
23 issuing a building permit and for building code enforcement, which consists of those necessary and reasonable  
24 costs directly and specifically identifiable for the enforcement of building codes, plus indirect costs charged on  
25 the same basis as other local government proprietary funds not paying administrative charges as direct  
26 charges. If indirect costs are waived for any local government proprietary fund, they must also be waived for the  
27 program established in this section. Indirect charges are limited to the charges that are allowed under federal  
28 cost accounting principles that are applicable to a local government.

(ii) reduced if the amount of the fees or charges accumulates above the amount needed to enforce building codes for 36 months. The excess must be placed in a reserve account and may be used only for building code enforcement. Collection and expenditure of fees and charges must be fully documented.

(iii) allocated and remitted to the department, in an amount not to exceed 0.5% of the building fees charges collected, for the building codes education program established in 50-60-116.

(3) Each Except as provided in subsection (6), each county, city, or town with a building code enforcement program that has been certified under 50-60-302 may, within the area of its jurisdiction:

(a) make, amend, and repeal rules for the administration and enforcement of the provisions of this section and for the collection of fees and charges related to construction; and

(b) prohibit the commencement of construction until a permit has been issued by the building code enforcement authority having jurisdiction after a showing of compliance with the requirements of the applicable provisions of the state building code or county, city, or town building code or other county, city, or town ordinance or resolution that pertains to the proposed construction. A county, city, or town subject to this subsection (3) may, as part of its building code or by town ordinance or resolution, adopt voluntary energy conservation standards for new construction for the purpose of providing incentives to encourage voluntary energy conservation. The incentive-based energy conservation standards adopted may exceed any applicable energy conservation standards contained in the state building code. New construction is not required to meet local standards that exceed state energy conservation standards unless the building contractor elects to receive a local incentive.

(4) Each Except as provided in subsection (6), each county, city, or town with a building code enforcement program that has been certified under 50-60-302 may perform inspections of buildings that are outside its jurisdictional limits, subject to the following conditions:

(a) The inspections are requested in writing by the owners or builders of the buildings to be inspected.

(b) The inspections are not done in lieu of inspections by another county, city, or town that has jurisdiction over the buildings to be inspected.

(c) (i) The county, city, or town powers of enforcement possessed as a result of building code enforcement certification by the department may not be exercised in conjunction with the requested

1      inspections.

2            (ii)     Similar powers of building code enforcement may not be contractually created or required by  
3      the requester and the inspecting jurisdiction.

4            (5)      In situations in which buildings may be annexed into an inspecting city's or town's jurisdiction  
5      subsequent to a requested inspection, the city or town may not require owners or builders to have duplicative  
6      inspections of those buildings prior to annexation as a condition precedent to receiving any public services or  
7      utilities.

8            (6)      All public buildings owned or operated by any state agency or state government entity must  
9      conform to the codes adopted in this part and in parts 4 through 8 of this chapter, and are subject to the  
10     jurisdiction of the department for purposes of all plan reviews, permitting, and inspections. The state agency or  
11     state government entity shall provide building plans to affected local government agencies for comment. The  
12     department shall take into consideration local government comments and ordinances and shall promptly notify  
13     the local jurisdiction of actions taken and the reasons for those actions. The state agency or state government  
14     entity shall transmit to the local jurisdiction copies of final, as-built building plans. IN PERFORMING PLAN REVIEWS,  
15     PERMITTING, AND INSPECTIONS, THE DEPARTMENT SHALL PROVIDE TO AFFECTED CITIES, TOWNS, AND COUNTIES THE  
16     BUILDING PLANS AND AN OPPORTUNITY TO PROVIDE COMMENT. THE DEPARTMENT SHALL NOTIFY THE LOCAL  
17     JURISDICTIONS OF ACTIONS TAKEN AND TRANSMIT TO THE LOCAL JURISDICTION COPIES OF FINAL BUILDING PLANS."

18

- END -