

HOUSE BILL NO. 395

INTRODUCED BY T. WOODS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR PUBLIC SERVICE COMMISSION REGULATION
5 OF HOSPITAL CHARGES; REQUIRING REVIEW OF CERTAIN HOSPITAL PRICING INCREASES;
6 REQUIRING RATE REGULATION AS A CONDITION OF HOSPITAL LICENSURE; PROVIDING RULEMAKING
7 AUTHORITY; AMENDING SECTIONS 37-68-102, 50-5-103, 50-5-104, 50-5-106, 50-5-111, 60-4-401, 69-3-101,
8 69-3-106, 69-3-110, 69-3-201, 69-3-203, 69-3-221, 69-3-305, 69-3-307, 69-3-321, 69-5-102, 76-3-103, AND
9 76-3-622, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

12
13 NEW SECTION. **Section 1. Legislative findings -- purpose.** (1) The legislature finds that many
14 hospitals and critical access hospitals exert monopolistic control over pricing and delivery of health care.

15 (2) The legislature further finds that the increasing costs of health care services and health insurance
16 have made it difficult for many Montanans to afford necessary health care services, while also gravely impacting
17 the ability of employers to operate competitively if they choose to offer health insurance coverage to their
18 employees.

19 (3) The legislature further finds that many Montana hospitals and critical access hospitals are organized
20 as nonprofit entities and as such receive a tax benefit from the public.

21 (4) It is the intent of the legislature that hospitals and critical access hospitals be regulated as public
22 utilities to ensure that:

23 (a) the prices they charge for health care services are reasonable and just; and

24 (b) the tax exemption benefits available to nonprofit hospitals and critical access hospitals are extended
25 to the public through differential limitations on prices charged by those hospitals.

26
27 NEW SECTION. **Section 2. Commission review of nonprofit hospital charges.** (1) A hospital or
28 critical access hospital regulated as a public utility under this chapter shall seek commission approval of a charge
29 for a medical procedure, service, supply, or episode of care that exceeds the reimbursement rate allowed by the
30 medicare program established pursuant to Title XVIII of the federal Social Security Act, 42 U.S.C. 1395, et seq.,

1 by the following amounts:

2 (a) 138% of the reimbursement rate if the hospital or critical access hospital is a nonprofit organization;

3 and

4 (b) 150% of the reimbursement rate if the hospital or critical access hospital is a for-profit entity.

5 (2) A hospital or critical access hospital shall notify the commission and the consumer counsel 9 months
6 before increasing prices to a level above the rate allowed in subsection (1).

7 (3) Notice to the commission and the consumer counsel must include:

8 (a) a summary of the justification for the proposed charge;

9 (b) an estimate of the number of consumers who will be affected by the proposed charge; and

10 (c) additional information as requested by the commission in accordance with rules adopted by the
11 commission.

12 (4) A hospital or critical access hospital shall publish notice of the requested charge and the proposed
13 effective date on its website.

14 (5) The commission shall review the proposed charge in accordance with the guidelines of this chapter
15 and approve or deny it in accordance with 69-3-302 and 69-3-304.

16

17 **NEW SECTION. Section 3. Applicability of chapter.** The provisions of 69-3-107, 69-3-108, 69-3-111,
18 69-3-113, 69-3-221, 69-3-222, and 69-3-223 do not apply to hospitals or critical access hospitals regulated under
19 this chapter.

20

21 **Section 4.** Section 37-68-102, MCA, is amended to read:

22 **"37-68-102. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
23 apply:

24 (1) "Board" means the state electrical board provided for in 2-15-1764.

25 (2) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

26 (3) "Electrical construction" means work performed by an individual, firm, or corporation in which an
27 electrical connection is made to a supply of electricity or in which electricity is supplied to any electric equipment
28 installation for which a permit is required by the authority having jurisdiction.

29 (4) (a) "Electrical contractor" means a person, firm, partnership, corporation, association, or combination
30 of these entities that undertakes or offers to undertake for another the planning, laying out, supervising, and

1 installing or the making of additions, alterations, and repairs in the installation of wiring apparatus and equipment
2 for electric light, heat, and power.

3 (b) The term does not include a person, firm, partnership, corporation, association, or combination of
4 these entities that only plans or designs electrical installations.

5 (5) "Journeyman electrician" means a person having the necessary qualifications, training, experience,
6 and technical knowledge to wire for, install, and repair electrical apparatus and equipment for light, heat, power,
7 and other purposes under the rules governing this work.

8 (6) "Journeyman level experience" means being recognized as a journeyman electrician by a state or
9 other legally authorized jurisdiction or having a minimum of 8,000 hours of practical experience.

10 (7) "Master electrician" means a person having the necessary qualifications, training, experience, and
11 technical knowledge to properly plan, layout, and supervise the installation and repair of wiring apparatus and
12 equipment for electric light, heat, power, and other purposes under the rules governing this work.

13 (8) "Practical experience" means experience gained in the electrical construction industry consisting of
14 layout, assembly, repairs, connecting and testing electrical fixtures, apparatus, and control equipment, and wiring
15 in residential and nonresidential settings pursuant to the provisions of the national electrical code or pursuant to
16 the requirements of another authority having jurisdiction.

17 (9) "Public utility" has the meaning provided in 69-3-101(a).

18 (10) "Residential electrician" means a person having the necessary qualifications, training, experience,
19 and technical knowledge to wire for, install, and repair electrical apparatus and equipment for light, heat, power,
20 and other purposes in residential construction consisting of less than five living units in a single structure under
21 the rules governing this work."

22

23 **Section 5.** Section 50-5-103, MCA, is amended to read:

24 **"50-5-103. Rules and standards -- accreditation.** (1) The department shall adopt rules and minimum
25 standards for implementation of parts 1 and 2.

26 (2) Any facility covered by this chapter shall comply with:

27 (a) the state and federal requirements relating to construction, equipment, and fire and life safety; and

28 (b) if applicable, the requirements of [sections 1 through 3].

29 (3) The department shall extend a reasonable time for compliance with rules for parts 1 and 2 upon
30 adoption.

1 (4) (a) Any hospital located in this state that furnishes written evidence required by the department,
2 including the recommendation for future compliance statements, to the department of its accreditation granted
3 by an entity listed in subsection (4)(b) is eligible for licensure in the state for the accreditation period and may not
4 be subjected to an inspection by the department for purposes of the licensing process.

5 (b) A hospital may provide evidence of its accreditation by:

6 (i) DNV healthcare, inc.;

7 (ii) the healthcare facilities accreditation program; or

8 (iii) the joint commission.

9 (c) The department may, in addition to its inspection authority in 50-5-116, inspect any licensed health
10 care facility to answer specific complaints made in writing by any person against the facility when the complaints
11 pertain to licensing requirements. Inspection by the department upon a specific complaint made in writing
12 pertaining to licensing requirements is limited to the specific area or condition of the health care facility to which
13 the complaint pertains.

14 (5) The department may consider as eligible for licensure during the accreditation period any health care
15 facility located in this state, other than a hospital, that furnishes written evidence, including the recommendation
16 for future compliance statements, of its accreditation by the joint commission. The department may inspect a
17 health care facility considered eligible for licensure under this section to ensure compliance with state licensure
18 standards.

19 (6) The department may consider as eligible for licensure during the accreditation period any
20 rehabilitation facility that furnishes written evidence, including the recommendation for future compliance
21 statements, of accreditation of its programs by the commission on accreditation of rehabilitation facilities. The
22 department may inspect a rehabilitation facility considered eligible for licensure under this section to ensure
23 compliance with state licensure standards.

24 (7) The department may consider as eligible for licensure during the accreditation period any outpatient
25 center for surgical services that furnishes written evidence, including the recommendation for future compliance
26 statements, of accreditation of its programs by the accreditation association for ambulatory health care. The
27 department may inspect an outpatient center for surgical services considered eligible for licensure under this
28 section to ensure compliance with state licensure standards.

29 (8) The department may consider as eligible for licensure during the accreditation period any behavioral
30 treatment program, chemical dependency treatment program, residential treatment facility, or mental health

1 center that furnishes written evidence, including the recommendation for future compliance statements, of
2 accreditation of its programs by the council on accreditation. The department may inspect a behavioral treatment
3 program, chemical dependency treatment program, residential treatment facility, or mental health center
4 considered eligible for licensure under this section to ensure compliance with state licensure standards."
5

6 **Section 6.** Section 50-5-104, MCA, is amended to read:

7 **"50-5-104. Certain exemptions for spiritual healing institution.** Parts 1 through 3 and rules and
8 standards adopted by the department may not authorize the supervision, regulation, or control of care or
9 treatment of persons in any home or institution conducted for those who rely upon treatment by prayer or spiritual
10 means in accordance with the creed or tenets of any well-recognized church or religious denomination. However,
11 a license is required and the minimum standards referred to in 50-5-103(2)(a) apply."
12

13 **Section 7.** Section 50-5-106, MCA, is amended to read:

14 **"50-5-106. Records and reports required of health care facilities -- confidentiality.** Health care
15 facilities shall keep records and make reports as required by the department and, if applicable, Title 69, chapter
16 3. Before February 1 of each year, every licensed health care facility shall submit an annual report for the
17 preceding calendar year to the department. The report must be on forms and contain information specified by
18 the department. Information received by the department through reports, inspections, or provisions of parts 1 and
19 2 may not be disclosed in a way which would identify patients. A department employee who discloses information
20 that would identify a patient must be dismissed from employment and subject to the provisions of 45-7-401 and
21 50-16-551, if applicable, unless the disclosure was authorized as permitted by law. Information and statistical
22 reports from health care facilities which are considered necessary by the department for health planning and
23 resource development activities must be made available to the public and the health planning agencies within
24 the state. Applications by health care facilities for certificates of need and any information relevant to review of
25 these applications, pursuant to part 3, must be accessible to the public."
26

27 **Section 8.** Section 50-5-111, MCA, is amended to read:

28 **"50-5-111. Prohibited activities.** It is unlawful to:

- 29 (1) operate a facility without a license;
30 (2) prevent, interfere with, or impede department investigation, department enforcement, department

1 examination of relevant books and records, or activities of the department concerning the preservation of
 2 evidence; ~~or~~

3 (3) violate any provision of part 1 or 2 of this chapter or violate a rule, license provision, or order adopted
 4 or issued pursuant to part 1 or 2; or

5 (4) for a hospital or critical access hospital subject to [sections 1 through 3], operate in violation of the
 6 requirements of the applicable provisions of Title 69, chapter 3."

7

8 **Section 9.** Section 60-4-401, MCA, is amended to read:

9 **"60-4-401. Relocation -- definitions.** For the purposes of this part, unless otherwise indicated, terms
 10 are defined as follows:

11 (1) (a) "Cost of relocation" means the amount paid by the utility for material, labor, and equipment
 12 properly attributable to the relocation after deducting any increase in the value of the new facility and any salvage
 13 value derived from the old facility.

14 (b) "Cost of relocation" does not mean engineering costs for designing, locating, staking, inspecting, or
 15 any other incidental costs of engineering.

16 (2) "Facility" means a utility's tracks, pipes, mains, conduits, cables, wires, towers, poles, and other
 17 equipment and appliances impacted by a project on a federal-aid system or state highway.

18 (3) "Federal-aid systems" includes the following, as defined in 60-2-125:

19 (a) national highway system;

20 (b) primary highway system;

21 (c) secondary highway system; and

22 (d) urban highway system.

23 (4) "State highway" means that term, as defined in 60-2-125.

24 (5) (a) "Utility" includes publicly, privately, and cooperatively owned utilities.

25 (b) The term does not include a hospital or critical access hospital regulated pursuant to [sections 1
 26 through 3]."

27

28 **Section 10.** Section 69-3-101, MCA, is amended to read:

29 **"69-3-101. Meaning of term "public utility".** (1) The term "public utility", within the meaning of this
 30 chapter, includes:

1 (a) every corporation, both public and private, company, individual, association of individuals, and their
 2 lessees, trustees, or receivers appointed by any court that own, operate, or control any plant or equipment, any
 3 part of a plant or equipment, or any water right within the state for the production, delivery, or furnishing for or to
 4 other persons, firms, associations, or corporations, private or municipal:

5 ~~(a)~~(i) heat;

6 ~~(b)~~(ii) street-railway service;

7 ~~(c)~~(iii) light;

8 ~~(d)~~(iv) power in any form or by any agency;

9 ~~(e)~~(v) except as provided in chapter 7, water for business, manufacturing, household use, or sewerage
 10 service, whether within the limits of municipalities or towns or elsewhere;

11 ~~(f)~~(vi) regulated telecommunications service; and

12 (b) a hospital or critical access hospital as defined in 50-5-101 that is licensed pursuant to Title 50,
 13 chapter 5, part 2.

14 (2) The term does not include:

15 (a) privately owned and operated water, sewer, or water and sewer systems that do not serve the public;

16 (b) county or consolidated city and county water or sewer districts as defined in Title 7, chapter 13, parts
 17 22 and 23;

18 (c) except as provided in chapter 7, municipal sewer or water systems and municipal water supply
 19 systems established by the governing body of a municipality pursuant to Title 7, chapter 13, parts 42, 43, and 44;

20 or

21 (d) a person exempted from regulation as a public utility as provided in 69-3-111."

22

23 **Section 11.** Section 69-3-106, MCA, is amended to read:

24 **"69-3-106. Supervision of management of public utilities -- limitation.** (1) The commission has the
 25 authority to inquire into the management of the business of all public utilities, shall keep itself informed as to the
 26 manner and method in which the business is conducted, and has the right to obtain from any public utility all
 27 necessary information to enable the commission to perform its duties.

28 (2) The commission, any commissioner, or any person or persons employed by the commission for that
 29 purpose, upon demand, has the right to inspect the books, accounts, papers, records, and memoranda of any
 30 public utility and to examine, under oath, any officer, agent, or employee of the public utility in relation to its

1 business and affairs. Any person, other than one of the commissioners, who makes the demand shall produce
2 the person's authority to make the inspection.

3 (3) The commission may require by order or subpoena, to be served on any public utility in the same
4 manner that a summons is served in a civil action in the district court, the production, within this state and at a
5 time and place that it may designate, of any books, accounts, papers, or records kept by a public utility in any
6 office or place outside of the state or verified copies in lieu of the books, accounts, papers, or records, if the
7 commission orders, so that ~~that~~ an examination of the books, accounts, papers, or records may be made by the
8 commission or under its direction. Any public utility failing or refusing to comply with any an order or subpoena
9 is subject to the liability provided for in 69-3-206.

10 (4) The commission may request information from hospitals and critical access hospitals under this
11 section only to the extent that the information pertains to the charges subject to the commission's review pursuant
12 to [section 2]."

13

14 **Section 12.** Section 69-3-110, MCA, is amended to read:

15 **"69-3-110. Enforcement of public utility law -- limitation.** (1) ~~The~~ Except as provided in subsection
16 (6), the commission shall inquire into any neglect or violation of the laws of this state by any public utility, as
17 hereinbefore defined, doing business in this state or by the officers, agents, or employees thereof. The
18 commission shall enforce the provisions of this chapter and report all violations thereof to the attorney general.

19 (2) All rates, fares, charges, classifications, and joint rates fixed by the commission shall be enforced
20 and are prima facie lawful from the date of the order until changed or modified by the commission or in pursuance
21 of part 4. All rules, practices, and services prescribed by the commission shall be enforced and enforcement
22 actions shall be brought pursuant to the provisions of part 4 until the rules, practices, or services are changed
23 or modified by the commission upon a satisfactory showing being made.

24 (3) Upon the request of the commission, it is the duty of the attorney general or the prosecuting attorney
25 of any county to aid in any investigation, prosecution, hearing, or trial had under the provisions of this chapter and
26 to institute and prosecute all actions or proceedings necessary for the enforcement of this chapter.

27 (4) Any forfeiture or penalty herein provided shall be recovered and suit thereon shall be brought in the
28 name of the state in the district court of any county having jurisdiction of the defendant. The attorney general shall
29 be the counsel in any proceeding, investigation, hearing, or trial prosecuted or defended by the commission, as
30 also shall any prosecuting attorney selected by the commission or other special counsel furnished the

1 commission in any county where such action is pending.

2 (5) In addition to the other remedies provided by this chapter for the prevention and punishment of any
3 violation of the provisions ~~thereof of this chapter~~ and all orders of the commission, the commission may compel
4 compliance with the provisions of this chapter and of the orders of the commission by proceedings in mandamus,
5 by injunction, or by other civil remedies.

6 (6) For hospitals and critical access hospitals, the commission's investigative and enforcement authority
7 under this section is limited to violations of the applicable provisions of Title 69, chapters 1 through 3."

8

9 **Section 13.** Section 69-3-201, MCA, is amended to read:

10 **"69-3-201. Utilities to provide adequate service at reasonable charges.** (1) Every public utility is
11 required to furnish reasonably adequate service and facilities. The charge made by any public utility other than
12 a hospital or critical access hospital for any heat, light, power, water, or regulated telecommunications service
13 produced, transmitted, delivered, or furnished or for any service to be rendered as or in connection with any public
14 utility shall be reasonable and just, and every unjust and unreasonable charge is prohibited and declared
15 unlawful.

16 (2) The rates charged for a medical procedure, service, supply, or episode of care by a hospital or critical
17 access hospital regulated under this chapter may not exceed the amount allowed under [section 2] unless the
18 commission approves the rates as reasonable and just."

19

20 **Section 14.** Section 69-3-203, MCA, is amended to read:

21 **"69-3-203. Annual report to commission.** (1) The accounts of all public utilities must be closed
22 annually on either June 30 or December 31. A balance sheet must be taken promptly from the accounts, and a
23 full annual report of the business of the utility must be made to the commission not later than October 31 if the
24 accounts are closed on June 30 and not later than April 30 if the accounts are closed on December 31.

25 (2) The reports must be in the form prescribed by the commission and must contain all the information
26 that the commission considers necessary for the proper performance of its duties. The commission may at any
27 time request information omitted from the reports or not provided for in the reports whenever, in the judgment of
28 the commission, the information is necessary.

29 (3) A nonprofit hospital or critical access hospital may satisfy the requirements of this section by filing
30 a copy of its most recent internal revenue service form 990."

1
2 **Section 15.** Section 69-3-221, MCA, is amended to read:
3 **"69-3-221. Public utility errors in billing customers.** (1) For the purposes of this section:
4 (a) "public utility" does not include:
5 (i) a municipal utility as defined in chapter 7 of this title; or
6 (ii) a hospital or critical access hospital as defined in 50-5-101;
7 (b) a "customer billing error":
8 (i) includes any bill issued by the utility that is not designated as an estimated bill and that understates
9 the amount owed by the customer;
10 (ii) includes a utility's failure to bill a customer for service provided that would be billed to the customer
11 under the utility's normal billing practices;
12 (iii) excludes errors that result from the theft of service by the customer;
13 (iv) excludes errors involving a utility's industrial class customers; and
14 (v) excludes errors incurred in the billing of long-distance services by a telecommunications utility.
15 (2) Whenever a public utility discovers a customer billing error, the utility may submit a bill to the
16 customer for a period not to exceed the 6 months preceding the date the billing error is discovered.
17 (3) The commission may adopt rules to implement subsections (1) and (2)."

18
19 **Section 16.** Section 69-3-305, MCA, is amended to read:
20 **"69-3-305. Deviations from scheduled rates, tolls, and charges.** (1) Except as provided in subsection
21 ~~(5)(a)~~ subsections (5)(a) and (5)(d), a public utility may not:
22 (a) charge, demand, collect, or receive a greater or less compensation for a utility service performed by
23 it within the state or for any service in connection with a utility service than is specified in the printed schedules,
24 including schedules of joint rates, that may at the time be in force;
25 (b) demand, collect, or receive a rate, toll, or charge not specified in the schedules; or
26 (c) grant a rebate, concession, or special privilege to a consumer or user that, directly or indirectly, has
27 or may have the effect of changing the rates, tolls, charges, or payments.
28 (2) The rates, tolls, and charges named in the printed schedules are the lawful rates, tolls, and charges
29 until the rates, tolls, and charges are changed, as provided in this chapter.
30 (3) The commission may order refunds or credits of rates, tolls, or charges collected in violation of this

1 section and may order payment of interest at a reasonable rate on the refunded amount.

2 (4) The provisions of this section do not prohibit the sharing of profits or revenues with customers in
3 conjunction with an alternative form of regulation approved under 69-3-809.

4 (5) (a) A provider of regulated telecommunications service may offer, for a limited period of time, rebates,
5 price reductions, or waivers of charges in conjunction with promotions, market trials, or other sales-related
6 activities that are common business practices. Promotional pricing for services to end users does not require
7 advance approval of the commission. Informational price lists must be filed with the commission on or before the
8 date that the promotion begins.

9 (b) A public utility providing electricity or natural gas may offer grants and subsidized loans to install
10 energy conservation and nonfossil forms of energy generation systems in dwellings.

11 (c) The commission may define the appropriate scope of promotions, rebates, market trials, and grants
12 and subsidized loans, either by rule or in response to complaints. The commission may determine whether a
13 particular sales activity or grant or subsidized loan program under this subsection is unfairly discriminatory or is
14 not cost-effective. Costs and expenses incurred or revenue foregone with respect to sales activities and grant
15 and subsidized loan programs that the commission determines are unfairly discriminatory or not cost-effective
16 are the responsibility of the provider's shareholders in rates set by the commission.

17 (d) A nonprofit hospital or critical access hospital may:

18 (i) accept rates as required by a federal or state medical assistance program; and

19 (ii) provide free or discounted care to people unable to pay for all or a portion of the health care services
20 they receive if the hospital is providing the free or discounted care as part of the community benefit it must provide
21 pursuant to internal revenue service requirements.

22 (6) A public utility violating the provisions of this section is subject to the penalty prescribed in 69-3-206.
23 However, this does not have the effect of suspending, rescinding, invalidating, or in any way affecting existing
24 contracts."
25

26 **Section 17.** Section 69-3-307, MCA, is amended to read:

27 **"69-3-307. Treatment of advertisement costs and contributions.** (1) Costs or expenses incurred by
28 public utilities for advertising, transfers of funds without full and adequate consideration, contributions, donations,
29 and gifts may not be treated as expenses deductible from income or from capital assets or in any other manner
30 by the public service commission in setting or regulating rates that may be charged by the public utilities pursuant

1 to this chapter.

2 ~~(2)~~ This section does not apply to advertising that:

3 ~~(a)~~ encourages the conservation of energy or product safety; ~~or~~

4 ~~(b)~~ informs the public of the availability of alternative forms of energy or recommends usage at times of
5 lower rates or lower demand; ~~or~~

6 ~~(c)~~ provides a public service by promoting public health information.

7 ~~(3)~~ ~~Furthermore, for~~ For communications public utilities, the provisions of this section do not apply to
8 advertising that relates to special equipment that is available to aid persons with disabilities or to special services
9 that are designed to protect the public health, welfare, and safety, to promote more efficient use of a
10 communications system, or to promote increased use of regulated communications services."
11

12 **Section 18.** Section 69-3-321, MCA, is amended to read:

13 **"69-3-321. Complaints against public utility -- hearing.** (1) The commission shall proceed, with or
14 without notice, to ~~make such investigation as it may deem~~ investigate as it considers necessary ~~upon~~ a complaint
15 made against any public utility by any mercantile, agricultural, or manufacturing society or club; by any body politic
16 or municipal organization or association, ~~the same being interested~~; or by any person, firm, or corporation,
17 provided ~~such~~ the person, firm, or corporation is directly affected ~~thereby~~, that:

18 (a) any of the rates, tolls, charges, or schedules or any joint rate or rates are ~~in any way~~ unreasonable
19 or unjustly discriminatory;

20 (b) any regulations, measurements, practices, or acts ~~whatsoever~~ affecting or relating to the production,
21 transmission, delivery, or furnishing of heat, light, water, power, or regulated telecommunications service, or any
22 service in connection ~~therewith~~ with those utilities is ~~in any respect~~ unreasonable, insufficient, or unjustly
23 discriminatory; or

24 (c) except for hospitals and critical access hospitals, any service is inadequate.

25 (2) No order affecting ~~such~~ the rates, tolls, charges, schedules, regulations, measurements, practices,
26 or acts complained of shall be entered without a formal hearing, except the commission may issue an order to
27 provide service to a residential consumer pending a hearing on a complaint by ~~such~~ the consumer or by the
28 consumer counsel on behalf of ~~such~~ the consumer against a public utility, providing that the hearing is held within
29 20 days unless further delayed by consent of all parties.

30 (3) In investigating a complaint involving a hospital or critical access hospital, the commission may not

1 disclose any protected health information in violation of federal regulations related to the federal Health Insurance
2 Portability and Accountability Act of 1996."

3

4 **Section 19.** Section 69-5-102, MCA, is amended to read:

5 **"69-5-102. Definitions.** When used in this part, the following definitions apply:

6 (1) "Agreement" means a written agreement between two or more electric facilities providers that
7 identifies the geographical area to be served exclusively by each electric facilities provider that is a party to the
8 agreement and any terms and conditions pertinent to the agreement.

9 (2) "Cost" means the gross cost of constructing new electric service facilities to the premises, using new
10 materials and similar design standards required to meet the load, from a point where there is existing electrical
11 capacity to serve.

12 (3) "Distribution facilities" means those facilities by and through which electricity is received from a
13 transmission services provider and distributed to the customer that are controlled or operated by a distribution
14 utility.

15 (4) "Distribution service" means the function of delivering electricity to the public by a distribution utility.

16 (5) "Distribution utility" means a utility owning distribution facilities for distribution of electricity to the
17 public.

18 (6) "Electric facilities provider" means any utility that provides electric service facilities to the public.

19 (7) "Electric service facilities" means any distribution or transmission system or related facility necessary
20 to provide electricity to the premises, including lines.

21 (8) "Electricity supplier" means any person, corporation, or governmental entity that:

22 (a) sells electricity to customers at retail rates in the state; and

23 (b) is not a public utility or a cooperative.

24 (9) "Electricity supply service" means the provision of electricity supply and related services through
25 power purchase agreements, the acquisition and operation of electrical generation facilities, demand side
26 management, and energy efficiency programs.

27 (10) "Large customer" means any premises, except subdivisions, with the estimated connected load for
28 full operation at an individual service for the premises of 500 kilowatts or larger.

29 (11) "Line" means any material that is used to convey electrical energy and that is normally energized
30 between 2,400 volts phase to ground and 14,400 volts phase to ground.

1 (12) "Premises" means a building, residence, structure, irrigation pump, or facility to which electric service
2 facilities are provided or are to be installed. However, two or more buildings, structures, irrigation pumps, or
3 facilities that are located on one tract or contiguous tracts of land and that are used by one electric consumer for
4 farming, business, commercial, industrial, institutional, governmental, or trailer court purposes must together
5 constitute one premises, except that any building, structure, irrigation pump, or facility, other than a trailer court,
6 may not, together with any other building, structure, irrigation pump, or facility, constitute one premises if the
7 electric service to it is separately metered and the charges for that service are calculated independently of
8 charges for service to any other building, structure, irrigation pump, or facility.

9 (13) "Regulated utility" means any electric utility regulated by the commission pursuant to Title 69, chapter
10 3, on May 2, 1997, including the public utility's successors or assignees.

11 (14) "Service territory" means premises receiving distribution service from a utility on January 1, 2011,
12 and premises added pursuant to Title 69, chapter 5.

13 (15) "Subdivision" has the meaning provided for in 76-3-103. The definition includes subdivisions that may
14 be developed in one or more phases of development at different periods of time.

15 (16) (a) "Utility" means a public utility regulated by the commission pursuant to Title 69, chapter 3, or a
16 utility qualifying as an electric cooperative pursuant to Title 35, chapter 18, or their successors or assignees.

17 (b) The term does not include a hospital or critical access hospital regulated by the public service
18 commission pursuant to [sections 1 through 3].

19 (17) "Vector" means a straight line between two points."
20

21 **Section 20.** Section 76-3-103, MCA, is amended to read:

22 **"76-3-103. Definitions.** As used in this chapter, unless the context or subject matter clearly requires
23 otherwise, the following definitions apply:

24 (1) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the
25 purpose of disclosing facts pertaining to boundary locations.

26 (2) "Cluster development" means a subdivision with lots clustered in a group of five or more lots that is
27 designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for
28 infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain
29 undeveloped.

30 (3) "Dedication" means the deliberate appropriation of land by an owner for any general and public use,

1 reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use
2 to which the property has been devoted.

3 (4) "Division of land" means the segregation of one or more parcels of land from a larger tract held in
4 single or undivided ownership by transferring or contracting to transfer title to a portion of the tract or properly
5 filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to this
6 chapter. The conveyance of a tract of record or an entire parcel of land that was created by a previous division
7 of land is not a division of land.

8 (5) "Examining land surveyor" means a registered land surveyor appointed by the governing body to
9 review surveys and plats submitted for filing.

10 (6) "Final plat" means the final drawing of the subdivision and dedication required by this chapter to be
11 prepared for filing for record with the county clerk and recorder and containing all elements and requirements set
12 forth in this chapter and in regulations adopted pursuant to this chapter.

13 (7) "Governing body" means a board of county commissioners or the governing authority of a city or town
14 organized pursuant to law.

15 (8) "Immediate family" means a spouse, children by blood or adoption, and parents.

16 (9) "Minor subdivision" means a subdivision that creates five or fewer lots from a tract of record.

17 (10) "Planned unit development" means a land development project consisting of residential clusters,
18 industrial parks, shopping centers, or office building parks that compose a planned mixture of land uses built in
19 a prearranged relationship to each other and having open space and community facilities in common ownership
20 or use.

21 (11) "Plat" means a graphical representation of a subdivision showing the division of land into lots,
22 parcels, blocks, streets, alleys, and other divisions and dedications.

23 (12) "Preliminary plat" means a neat and scaled drawing of a proposed subdivision showing the layout
24 of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing
25 body.

26 (13) "Public utility" has the meaning provided in 69-3-101(a), except that for the purposes of this chapter,
27 the term includes county or consolidated city and county water or sewer districts as provided for in Title 7, chapter
28 13, parts 22 and 23, and municipal sewer or water systems and municipal water supply systems established by
29 the governing body of a municipality pursuant to Title 7, chapter 13, parts 42, 43, and 44.

30 (14) "Subdivider" means a person who causes land to be subdivided or who proposes a subdivision of

1 land.

2 (15) "Subdivision" means a division of land or land so divided that it creates one or more parcels
3 containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States
4 government section, exclusive of public roadways, in order that the title to the parcels may be sold or otherwise
5 transferred and includes any resubdivision and a condominium. The term also means an area, regardless of its
6 size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or
7 mobile homes will be placed.

8 (16) (a) "Tract of record" means an individual parcel of land, irrespective of ownership, that can be
9 identified by legal description, independent of any other parcel of land, using documents on file in the records of
10 the county clerk and recorder's office.

11 (b) Each individual tract of record continues to be an individual parcel of land unless the owner of the
12 parcel has joined it with other contiguous parcels by filing with the county clerk and recorder:

13 (i) an instrument of conveyance in which the aggregated parcels have been assigned a legal description
14 that describes the resulting single parcel and in which the owner expressly declares the owner's intention that
15 the tracts be merged; or

16 (ii) a certificate of survey or subdivision plat that shows that the boundaries of the original parcels have
17 been expunged and depicts the boundaries of the larger aggregate parcel.

18 (c) An instrument of conveyance does not merge parcels of land under subsection (16)(b)(i) unless the
19 instrument states, "This instrument is intended to merge individual parcels of land to form the aggregate parcel(s)
20 described in this instrument" or a similar statement, in addition to the legal description of the aggregate parcels,
21 clearly expressing the owner's intent to effect a merger of parcels."
22

23 **Section 21.** Section 76-3-622, MCA, is amended to read:

24 **"76-3-622. Water and sanitation information to accompany preliminary plat.** (1) Except as provided
25 in subsection (2), the subdivider shall submit to the governing body or to the agent or agency designated by the
26 governing body the information listed in this section for proposed subdivisions that will include new water supply
27 or wastewater facilities. The information must include:

28 (a) a vicinity map or plan that shows:

29 (i) the location, within 100 feet outside of the exterior property line of the subdivision and on the proposed
30 lots, of:

- 1 (A) flood plains;
- 2 (B) surface water features;
- 3 (C) springs;
- 4 (D) irrigation ditches;
- 5 (E) existing, previously approved, and, for parcels less than 20 acres, proposed water wells and
- 6 wastewater treatment systems;
- 7 (F) for parcels less than 20 acres, mixing zones identified as provided in subsection (1)(g); and
- 8 (G) the representative drainfield site used for the soil profile description as required under subsection
- 9 (1)(d); and
- 10 (ii) the location, within 500 feet outside of the exterior property line of the subdivision, of public water and
- 11 sewer facilities;
- 12 (b) a description of the proposed subdivision's water supply systems, storm water systems, solid waste
- 13 disposal systems, and wastewater treatment systems, including:
- 14 (i) whether the water supply and wastewater treatment systems are individual, shared, multiple user, or
- 15 public as those systems are defined in rules published by the department of environmental quality; and
- 16 (ii) if the water supply and wastewater treatment systems are shared, multiple user, or public, a statement
- 17 of whether the systems will be public utilities ~~as defined in 69-3-104~~ and subject to the jurisdiction of the public
- 18 service commission or exempt from public service commission jurisdiction and, if exempt, an explanation for the
- 19 exemption;
- 20 (c) a drawing of the conceptual lot layout at a scale no smaller than 1 inch equal to 200 feet that shows
- 21 all information required for a lot layout document in rules adopted by the department of environmental quality
- 22 pursuant to 76-4-104;
- 23 (d) evidence of suitability for new onsite wastewater treatment systems that, at a minimum, includes:
- 24 (i) a soil profile description from a representative drainfield site identified on the vicinity map, as provided
- 25 in subsection (1)(a)(i)(G), that complies with standards published by the department of environmental quality;
- 26 (ii) demonstration that the soil profile contains a minimum of 4 feet of vertical separation distance between
- 27 the bottom of the permeable surface of the proposed wastewater treatment system and a limiting layer; and
- 28 (iii) in cases in which the soil profile or other information indicates that ground water is within 7 feet of the
- 29 natural ground surface, evidence that the ground water will not exceed the minimum vertical separation distance
- 30 provided in subsection (1)(d)(ii);

1 (e) for new water supply systems, unless cisterns are proposed, evidence of adequate water availability:
2 (i) obtained from well logs or testing of onsite or nearby wells;
3 (ii) obtained from information contained in published hydrogeological reports; or
4 (iii) as otherwise specified by rules adopted by the department of environmental quality pursuant to
5 76-4-104;

6 (f) evidence of sufficient water quality in accordance with rules adopted by the department of
7 environmental quality pursuant to 76-4-104;

8 (g) a preliminary analysis of potential impacts to ground water quality from new wastewater treatment
9 systems, using as guidance rules adopted by the board of environmental review pursuant to 75-5-301 and
10 75-5-303 related to standard mixing zones for ground water, source specific mixing zones, and nonsignificant
11 changes in water quality. The preliminary analysis may be based on currently available information and must
12 consider the effects of overlapping mixing zones from proposed and existing wastewater treatment systems within
13 and directly adjacent to the subdivision. Instead of performing the preliminary analysis required under this
14 subsection (1)(g), the subdivider may perform a complete nondegradation analysis in the same manner as is
15 required for an application that is reviewed under Title 76, chapter 4.

16 (2) A subdivider whose land division is excluded from review under 76-4-125(2) is not required to submit
17 the information required in this section.

18 (3) A governing body may not, through adoption of regulations, require water and sanitation information
19 in addition to the information required under this section unless the governing body complies with the procedures
20 provided in 76-3-511."

21
22 **NEW SECTION. Section 22. Codification instruction.** [Sections 1 through 3] are intended to be
23 codified as an integral part of Title 69, chapter 3, and the provisions of Title 69, chapter 3, apply to [sections 1
24 through 3].

25
26 **NEW SECTION. Section 23. Effective date.** [This act] is effective January 1, 2018.

27 - END -