



SIERRA CLUB

MONTANA CHAPTER

Oppose Extreme Anti-Regulation Bill

SB 260 could cost Montana millions and prevent the state from being able to enforce measures that protect land, water, wildlife, climate, and public health & safety

OPPOSE SB 260 (Sponsor: Representative Fitzpatrick)

- [SB 260](#), “Generally revise related to property interests and transfer of businesses,” **is an extreme regulatory takings bill that could cost Montana hundreds of millions, if not billions, of dollars and have devastating repercussions for nearly every action of state government**¹.
- The bill would expand the state definition of private property (to include profits, perceived business brands, more or less anything considered to have value) and requires that many regulations and rules that devalue property by 25% or more be compensated by the government². **It seems intended to protect private property and business interests above all else, undermining Montana’s basic ability to regulate individual and business actions that have societal repercussions.**
- The concept of regulatory takings expands on eminent domain laws that enable the government to take private property for public use but require repayment of the value of the property. At present, the requirement for repayment only applies to situations in which the government removes the full value of the property. SB 260 would broaden the applications of this idea substantially, “including state regulations on specific types of businesses and actions that devalue intangible property, such as intellectual property, licenses, and reputations.”³ It also applies to highly regulated industries, including monopoly, for-profit utility companies that provide public services (like NorthWestern Energy). **This would provide a strong disincentive for the state to effectively regulate businesses in the public interest and would be an enormous burden to taxpayers.**
- **If this bill passes, any business or corporation that thinks a state regulation or a denial of a permit cost them money could sue for compensation. At the end of the day, the bill would upend Montana’s ability to enforce regulations such as environmental and public health and safety rules.**

We’ve Seen this Type of Bill Before, But SB 260 is The Worst of its Kind

- When Oregon passed a similar law through ballot initiative several years ago, the State faced almost 7,000 claims totaling \$20 billion. Oregon voters repealed the initiative just three years later. **Even a small fraction of that amount would be devastating to Montana.**
- In Montana, **SB 260 is the first of regulatory takings bills to clear either chamber in more than a decade and the first to interfere with regulations protecting public health and safety.**
- The last takings bill introduced in Montana, during the 2017 session, included projections that it would cost state and local governments at least \$600 million over six years. SB 260’s fiscal note lists the cost estimates as “unknown.”

¹ MEIC Bill Tracker, <https://meic.org/bill-tracker/#/5>.

² Sam Wilson, “Takings bill advances in Montana legislature.” *Billings Gazette*, March 15, 2021, https://billingsgazette.com/news/state-and-regional/govt-and-politics/takings-bill-advances-in-montana-legislature/article_5d8fdc20-f5bc-5dbd-bd5c-0a37d8e8506a.amp.html.

³ Ibid