

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

February 19, 1983

The meeting of the Business and Industry Committee was called to order by Chairman Allen Kolstad on February 19, 1983, at 12:25 p.m., in Room 405, State Capitol.

ROLL CALL: All members were present with the exception of Senators Boylan and Severson who were excused.

CONSIDERATION OF SENATE BILL 436: An act reestablishing the Public Service Commission under existing statutory authority and rules; revising Public Service Commission authority; providing for fees commensurate with costs; making temporary municipal regulatory authority over utilities permanent; exempting privately owned and county water and sewer systems from Public Service Commission regulation; authorizing temporary utility rate decreases; clarifying time limits on municipal rate increases; modifying municipal rate hearing notice requirements; extending special provisions relating to waste disposal to local governments; establishing ratemaking authority over Class D motor carriers; making railroad safety functions permissive rather than mandatory; and deleting the requirement that railroads serve all county seats and cities over 1,000.

Senator Chet Blaylock went through the highlights of the bill. He gave the committee an amendment which was given to him by the Public Service Commission. (Exhibit No. 1)

PROPONENTS TO SENATE BILL 436: Senator Matt Hims1 stated he was the Chairman of the Audit Committee on the sunset review. The Public Service Commission and other utilities, if you read the sunset review are working well together. They were told by a number of utilities that the spirit of cooperation became much better after they were put under the sunset. There were no conflicts. This is a complex and difficult issue when you get into rate fixing and rate making. They found they were in unison in the practices found elsewhere. However, the length of time when the applications came in and were heard was something like 20 months. It is our recommendation that in order to improve this time problem they have we are suggesting additional financing to provide capability to audit industry and motor carriers more than they have, improve data processing, and on-going review of carrier people.

Bill Romine, Solid Waste Contractors Association, stated it is obvious that the Public Service Commission needs to be reactivated. He handed the Committee amendments which he is proposing. (Exhibit No. 2)

Tom Schneider, Public Service Commission, stated the staff had prepared an excellent summary of the bill. He introduced their attorney, Opal Weinbrenner.

Opal Weinbrenner stated the Commission had one proposed amendment on page 7. (Exhibit No. 3) She also had Statements of Support, Statements of Opposition by the Montana Public Service Commission and a Summary of the Legislative Audit Committee Bill. (Exhibits 4, 5, & 6).

These exhibits are attached to the minutes.

Bill Brasher, Burlington Northern Railroad, stated they support this bill as prepared and as written by the Legislative Audit Committee. They support the language changes in the bill regarding permissive rather than mandatory safety inspections.

Ben Havdahl, Montana Motor Carriers Association, stated they support this legislation especially the section that says "the payment of fees charged by the Commission must be commensurate with the costs incurred in administering the function for which the fee is charged."

J. W. Hyre, Mountain Bell, stated they support this bill. He had some proposed amendments which he explained to the committee regarding temporary increases and decreases. (Exhibit No. 7)

OPPONENTS TO SENATE BILL 436: Representative Paul Pistoria stated he is only opposed to the regulation of the water and sewer allowing the power to raise it 12%. He fought this in the 1981 session. The city of Helena was granted a raise and then asked for another raise. They also tried the same thing in the city of Great Falls.

John Alke, MDU, stated they oppose the bill as written because it has unconstitutional provisions. He gave the committee proposed amendments to the bill. (Exhibit No. 8)

James Mular, Railway Clerks, stated the bill should be restored to the language of the present law. His written testimony is attached to the minutes. (Exhibit No. 9)

Morris Gullickson, United Transportation Union, stated they oppose the bill. If this bill passes we would like to see an amendment, page 25, line 22, returned to "shall have full authority" instead of "may". We want the Public Service Commission to have full authority in enforcing the safety and health rules and not a "may enforce" situation. We work under these rules and want them enforced.

Dennis Lopach, Northwestern Telephone Systems, Inc., stated it is my position that if the Commission were to be taken from a general fund agency and based strictly on a user fund system the appropriate means would be a revenue tax which is now collected in order to fund the Consumer Counsel's office. He does not know how the Commission will determine in advance what the cost of determining a rate application might be. There might be some policy for removing the burden on the general fund. This would be an unrealistic approach to the problem. It seems this is asking the Commission to do something that is very difficult.

There were no further proponents nor opponents.

QUESTIONS FROM THE COMMITTEE: Senator Regan asked were these amendments considered by you when you were having the bill drafted? Senator Blaylock stated as far as the unconstitutionality, no. The amendment that I presented as far as cleaning up the language we do have that

that amendment in there. The staff attorneys at the Public Service Commission feel if we can put the proposed language in it would be cleaner language.

Senator Fuller asked did you review this legislation? Mr. Paine, Consumer Counsel, stated he is in support of the continued assistance of the Commission.

Senator Lee asked all the new language where we strike the fees... what will the net affect be will the fees go down or up? Mr. Schneider stated there will be very little change. Some of the key fees are set by Federal legislation.

Senator Dover asked would you feel too bad if we stripped this down and put in what you amended out? You have put into this bill many issues that have been debated and battled and now you sneak it in this bill. We have a few minutes to work on things that the Legislature has battled for hours. If you want this stuff in put it in on another bill. Senator Blaylock stated we are doing what we have been told by the Legislature. The Boards, Bureaus and Commissions were to be sunsetted. We were to look them over and recommend this to the Legislature in this bill. We are not trying to sneak anything. This bill came up just a few days ago. We should go ahead and pass this over to the House as is and then hopefully the House will have more time to look at this, but we should not strip this out as it is the recommendation of the Legislative Audit Committee.

Senator Dover asked what requires you to bring all this in one bill? You could have brought these issues up in several bills. Senator Blaylock stated you would not be following the sunset audit.

Senator Hims1 stated this is not what the sunset review is all about. The review is to reexamine independently and thoroughly each of these agencies and reestablish them with improvements.

Senator Dover asked could you put them in separate bills? Senator Hims1 asked why would you want to do that? There is no reason. You can amend it. That is your responsibility. It makes more sense to put some of these bills together instead of doing what we are doing now.

Chairman Kolstad stated I think because of the severe time constraints we are under here I am going to appoint a subcommittee and meet after the session. He appointed Senators Lee, Gage and Christiaens.

Additional exhibits are attached. There was not enough time to hear all proponents and opponents of this bill. (Exhibits 10 through 15) These are attached to the minutes.

The hearing was closed on Senate Bill 436.

CONSIDERATION OF SENATE BILL 460: An act creating the Montana Economic Development Corporation; specifying the powers and functions of the corporation; providing for funding of the corporation; and providing

an immediate effective date.

Senator Dave Fuller stated he is the sponsor of this bill. About 18 months ago N.R. Action group obtained a study grant. The purpose of the study was to look at the study of state investment. He was retained to coordinate the study and he did supervise it for 12 months. He stated 90% of the small businesses fail after three years. They do not know how to write a financial plan. He is proposing to get venture capital money and create some small businesses.

PROPOSERS TO SENATE BILL 460: Renee Brereton, Montana Senior Citizens Association, stated they see jobs as the single most issue of this Legislature. They see senior citizens sharing their income because of the unemployment of the State.

OPPOSERS TO SENATE BILL 460: Forrest H. Boles, Montana Chamber of Commerce. His written testimony is attached to the minutes. (Exhibit No. 16)

John Lopach, Economic Growth Council, Great Falls. His written testimony is attached to the minutes. (Exhibit No. 17)

There were no further proponents nor opponents.

QUESTIONS FROM THE COMMITTEE: Senator Christiaens asked is there any way leverage can be applied under your proposal? Senator Fuller stated yes, this would be the last level.

Senator Goodover asked doesn't the Small Business Administration now provide that same source of money? They work with the banks and provide the guarantee. Senator Fuller stated it could.

Senator Gage stated the comment was made on jobs. It would be a year before it is operative, by then we may be in the most prosperous times we have ever seen, hopefully.

In closing, Senator Fuller stated we are not going to the general fund we are going to the tax coal interest. This is not replacing it, it is just another way to go. In terms of SBIC's if it does not fly this time, I will be back in two years. He predicts there will be a need for this in two years.

ADJOURN: There being no further business, the meeting adjourned at 1:30 p.m.



ALLEN C. KOLSTAD, CHAIRMAN

2/18/83

EXHIBIT NO. 1

69-14-202. Duty to furnish shipping and passenger facilities.

(1) Every Any person, corporation, and association operating a railroad in the state shall maintain and staff facilities established for shipment and delivery of freight and shall ship and deliver freight and accommodate passengers, in at least one location, preferably the county seat, in each county through which the line of the railway passes and at any point upon the line of such railway where there is a city or town having a population, according to the last federal census, of not less than 17000, provided, however, that this section shall not require the maintenance and staffing of such facilities in any county or any city or town in which such facilities were not maintained and staffed on July 1, 1969.

(2) No agent, agency or station facility Nothing in this section authorizes the discontinuance of any facility presently established in any city, town, or other location having a population of less than 17000 may be discontinued or removed without a hearing before the public service commission, as provided by law.

SUBMITTED BY: Bill Romine

February 19, 1983

EXHIBIT NO. 2

AMENDMENTS TO SENATE BILL NO. 436:

Submitted by Solid Waste Contractors Association

Amend Senate Bill No. 436 as follows:

1. Page 19, line 24.

Following: "thereof"

Strike: "or a local government, including but not limited
to cities and counties."

2. Page 23, line 6.

Following: "Class A_."

Insert: "or"

Strike: "or D"

3. Page 23, line 23.

Strike: "New Section. Section 20." in its entirety

4. Page 24, line 6.

Following: "Class A_."

Insert: "or"

Strike: "or D"

5. Page 24, line 17.

Following: "Class A_."

Insert: "or"

Strike: "or D"

6. Page 24, line 21.

Following: "Class A_."

Insert: "or"

Strike: "or D"

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Thomas Schneider, Chairman
John Driscoll
Howard Ellis
Clyde Jarvis
Danny Oberg

PROPOSED AMENDMENT TO SENATE BILL NO. 436
(INTRODUCED BILL COPY)

1. RE: Bill page 7, line 2 "NEW SECTION. Section 3. Fees."

Page 7, line 3

Following: "commission"

Insert: " , except those fees set by federal law, "

2. Explanation of Proposed Amendment

Federal law presently provides the maximum fees that states can assess motor carriers for registration of interstate authorities and purchase of vehicle identification stamps. Montana and the majority of other states assess the maximum fee provided by law. The Vehicle Identification Stamp fee applies to all vehicles used by regulated carriers, whether those carriers are based in Montana or not. To date, the Commission has sold in excess of 155,000 1983 vehicle identification stamps at \$5.00 per stamp. Approximately 90 to 95% of the carriers ordering stamps are based outside of Montana.

2/19/83

Thomas Schneider, Chairman
John Driscoll
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Danny Oberg

SENATE BILL 436

PAGE 18 BEGINNING LINE 25

STATEMENT OF SUPPORT BY THE MONTANA PUBLIC SERVICE COMMISSION

This section of Senate Bill 436 proposes to allow local governments the same contracting rights as now possessed by the federal and state governments. Under existing statute, any carrier who has a contract for transporting any commodity for the United States government or a contract for the transportation for solid waste with any state agency can present that contract to the Public Service Commission and receive a certificate for the duration of the contract. This bill would allow local governments to also issue contracts for the transportation of solid waste and allow the PSC to issue a certificate based on that contract.

The Public Service Commission supports this legislation for the following reasons:

1. Review by two governmental bodies (local governments and the Public Service Commission) of the carriers ability to transport solid waste is both unnecessary and costly to the State of Montana. Once a local government entity (city, county, or district) has advertised for bids based upon their specifications and have awarded a contract for the transportation movement of solid waste, further review by the Public Service Commission is not only unnecessary, but may result in an overturning of the bid process based upon the present statutes, therefore resulting in a higher cost to the consumers in the area.
2. Local governments are in a much better position to monitor the service provided by the contractors and to take corrective action if they feel it is needed for the protection of the health and welfare of their constituents.
3. It should be noted that any certificate issued under this legislation will expire at the end of the contract period and that present carriers are protected under 7-13-4107 MCA which states that existing carriers must be given five years notice or paid fair market value for their equipment if the community elects to provide exclusive garbage or solid waste service.

4. It should be pointed out that the Public Service Commission would still maintain, under this procedure, jurisdiction over insurance and vehicle safety and the PSC would assist local governments in all vehicle safety related matters.

Again let me state that it is the position of the Montana Public Service Commission that once a local government has advertised, accepted bids and made a decision on who to use to transport solid waste in their area, through the awarding of a contract, a presentation of that contract to the Commission should be enough evidence for the Commission to grant a certificate without further review by the PSC.

Montana Public Service Commission urges you to support this section of Senate Bill 436 as a means of reducing the bureaucracy and review by two governmental agencies of a bonafide contract between a local government and a person who wishes to transport solid waste and to give to the local government the ability to decide which carriers would best serve their constituents.

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SENATE BILL 436

69-14-115 Page 25 Beginning Line 1
69-14-116 Page 25 Beginning Line 21

STATEMENT OF OPPOSITION BY THE MONTANA PUBLIC SERVICE COMMISSION

The Montana Public Service Commission opposes the language in Senate Bill 436 which makes enforcement of railroad safety laws in Montana permissive rather than mandatory. The Commission feels that the State of Montana needs to have its own rail inspector, some of the reasons for this include:

1. There are safety and sanitary conditions set out by the Montana statutes that Federal inspectors have no jurisdiction over. (ie: Conditions inside cabooses.)
2. The priorities that the State of Montana has for track inspections may differ from that of the Federal Government. At the present time the State has no say in what lines should be inspected or how often the inspections should be made. (ie: The State of Montana may have a priority of maintaining conditions on branch lines to see that adequate service is provided.)
3. The Commission has in the past legislative sessions been on record requesting a rail inspector position from this legislature, and is again this year requesting a position through our budget process.

It is the Commission's opinion that rail safety is important to the State of Montana and that all efforts to institute a rail inspection program should be taken. We urge you to strike the proposed language in these two statutes and support the Commission in our effort to obtain funding for a State Rail Inspector.

MONTANA PUBLIC SERVICE COMMISSION SUMMARY
OF THE
LEGISLATIVE AUDIT COMMITTEE BILL
SENATE BILL NO. 436

1. Re: Sunset Provision (Page 2, Beginning Line 11).

The bill amends MCA §2-3-103(1) (g) "Agencies to terminate" by removing the reference to the "Public Service Commission, Department of Public Service Regulation" and redesignating the sequence in subsection (3), and inserting a new subsection (6) that states the "Public Service Commission, Department of Public Service Regulation" will terminate on July 1, 1989.

COMMISSION: Support.

2. Re: Fees Charged By Commission (Page 7, Beginning Line 2).

A new section is added that will require all fees charged by the Commission to be commensurate with the costs incurred in administering the function for which the fee is being charged.

COMMISSION: Support with amendment.

"except those fees set by federal statute."

3. Re: Effective Date for MCA Title 69, Chapter 7 "Municipal Utilities" (Page 7, Beginning Line 7).

Chapter 7 was originally passed by the Legislature as a temporary Chapter to be terminated July 1, 1983. The termination date has been eliminated so Chapter 7 becomes permanent. (This chapter concerns the partial deregulation of municipal utility services.)

COMMISSION: Neutral.

4. Re: Removal of county water/sewer districts and privately owned water/sewer associations from "public utility" definition (Page 8, Beginning Line 5).

MCA §69-3-101 "Meaning of public utility" is renumbered to provide for a new subsection(2) which defines a public utility as not including county or consolidated city and county water/sewer districts as defined in MCA Title 7, Chapter 13, or privately-owned and operated water/sewer systems which do not serve the public, e.g. water associations.

COMMISSION: Support. Proposed language clarifies Commission's regulatory jurisdiction over water and sewer service entities which have been the subject of litigation.

5. Re: Amendments to MCA §69-3-204 "Fees to be charged by Commission." (Page 8, Beginning Line 12).

Subsection(1) of MCA §69-3-204 is amended to allow the Commission discretion in determining whether to charge fees for filing annual reports, schedules and supplements, to add filing of applications to what fees can be charged for, and to eliminate (a) through (d) of the subsection that provides a specific fee schedule. Language requiring commission to charge fees for copies of orders, and other instruments is eliminated.

COMMISSION: Support.

6. Re: Amendments to MCA §69-3-304 "Temporary approval of rate increases" (Page 9, Beginning Line 9).

Amendments would allow the Commission to also temporarily approve rate decreases pending a rate application hearing or the Commission's final decision on a rate application.

If the Commission's final decision is to disapprove the temporary rate decrease, the Commission has the discretion to order all consumers to pay a surcharge for the amount that was not collected retroactive to the date of the temporary approval.

The Commission is also granted the discretion to order that interest, as determined by the Commission, be assessed on the surcharge. (MCA §69-3-302, provides that the PSC can assess an annual interest rate of 10% on rebates; Senate Bill No. 305 proposes to amend MCA §69-3-302 to allow the Commission to determine the annual interest rate, and to assess interest on both rebates and surcharges.)

Also provides that the Commission's decision to approve or deny a temporary rate decrease is an intermediate agency action, and a party may seek judicial review of that action under the Montana Administrative Procedure Act.

COMMISSION: Support.

7. Re: Clarifying Amendments to Title 69, Chapter 7 "Municipal Utilities" (Page 9, Beginning Line 25).

(A) Amends MCA §69-7-101 "Municipal-utilities regulation by municipality-limitation," to clarify that the phrase "annual revenues" for purposes of Chapter 7, means any consecutive 12 month period. (Page 10, Beginning Line 14).

COMMISSION: Support if Commission's regulatory jurisdiction is retained.

(B)Amends MCA §69-7-102 "Rate increases over maximum" to provide that if the Commission issues a final order concerning a municipality's rates, the municipality is prevented from increasing its rates for a period of 12 months following the Commission's order. A municipality may increase rates during such a

12 month period, however, if the increases are required to finance the local government's share for mandated federal or state capital improvements. (Page 11, Beginning Line 1).

COMMISSION: Support if Commission's regulatory jurisdiction is retained.

(C) Removes requirement in MCA §69-7-111 "Municipal Rate Hearing" that a municipality must mail notice of rate hearing by sending the notice with the monthly bill for utility services; municipality still required to mail notices no more than 30 days prior to the rate hearing. (Page 11, Beginning Line 24).

Provides that notice of rate hearing contain an estimate of customer's average bill thereby removing requirement that estimate must be of a "monthly" bill. (Page 11, Beginning Line 24).

COMMISSION: Neutral.

8. Amendments to subsection(3) of MCA §69-12-311,312,313
Re: Motor carrier certificate Application filing fee.
(69-12-311: Page 13, Beginning Line 20; 69-12-312: Page 15, Beginning Line 5; and 69-12-313: Page 16, Beginning line 20.)

Subsection (3) in MCA §69-12-311, §69-12-312, and §69-12-313 is amended to allow the Commission to set filing fees for Class A, B, and C motor carrier certificate applications and removes specific language re: amount of fee and requirement that filing fee be determined by number of counties for which certificate is requested. These amendments will be consistent with proposed language of MCA §69-12-423 "Fees to charged by Commission."

COMMISSION: Support.

9. Amendment to MCA §69-12-313(1) "Class C motor carrier certificate. (Page 15, Beginning Line 14).

Subsection (1) in MCA §69-12-313 is amended to specifically refer to MCA §69-12-324 "Special provisions when federal or state contract involved.", rather than having the contract exception language of MCA §69-12-324 contained in Subsection (1).

COMMISSION: Support.

10. Amendment to MCA §69-12-321(1) "Hearing on Application for motor carrier certificate." (Page 17, Beginning Line 13).

Subsection(1) is amended to simply refer to MCA §69-12-324 concerning Class C carriers who have contracts with a government department or agency, rather than having the contract exception language of MCA §69-12-324 contained in the Subsection (1).

COMMISSION: Support.

11. Amendments to MCA §69-12-324 "Special provisions when federal or state contract involved." (Page 18, Beginning Line 25).

Subsection(1) is revised to more clearly define a transportation movement for the purposes of this section: If a federal government contract is involved, the transportation movement must involve for hire movement of people or commodities. If a state or local government contract is involved, the transportation movement must involve the transportation of solid waste.

Subsection(1)(2) and (3) are amended to include "local government contracts."

COMMISSION: Support. Please see attached Statement of Support.

12. Amendment to MCA §69-12-406 "Restriction on transportation of certain waste." (Page 20, Beginning Line 23).

New language is added to refer to the exception in MCA §69-12-324 that would allow Class A, B, or C carriers to transport solid waste under a state or local government contract.

COMMISSION: Support. Proposed language is consistent with changes sought in Section 69-12-324 (See No. 11 above).

13. Amendments to MCA §69-12-421 "Annual fee for motor carriers." (Page 21, Beginning Line 10).

Subsection(1) is amended to change the dates by which motor carriers must pay their annual fees to the Commission from "on or between January 1 and January 15" to "on or between October 1 and the immediately following January 31."

Subsection (1) is also amended to remove language requiring the annual fee to be \$5.00, and adding new language to allow the Commission to set the annual fee.

COMMISSION: Support. Proposed language is to bring filing dates into conformity with federal statutes. Language to allow Commission to set the annual fee is consistent with proposed language of MCA §69-12-423 "Fees to be charged by Commission."

14. Amendments to MCA §69-12-423 "Fees to be charged by Commission." (Page 22, Beginning Line 4).

Subsection(1) is amended to grant the Commission discretion in determining whether to charge fees for sales and leases of motor carrier certificates, public convenience and necessity applications, schedules and supplements. Language requiring the Commission to charge fees for copies of orders and other documents/instruments and (a) through (e) of the subsection that provided a fee schedule, are eliminated.

COMMISSION: Support with amendment to provide "except those fees which are set by federal statute."

15. Amendments to MCA §69-12-501 "Rate schedules to be maintained." (Page 23, Beginning Line 6).

Adds Class D motor carriers on the assumption that the Legislature will adopt other legislation requiring Class D carriers to be rate regulated by the Commission. Language is added to clarify that the service rates charged by Class D carriers on January 1, 1983, will be grandfathered and serve as the lawful rates until changed by the rate procedures allowed in Chapter 12.

COMMISSION: Neutral.

16. Amendments to MCA §69-12-502 "Prohibition on deviation from rate schedules." (Page 24, Beginning Line 6).

Language to include Class D carriers is added for consistency with MCA §69-12-501 on the assumption that these carriers will be rate regulated.

COMMISSION: Neutral. Proposed language provides consistency with Section 69-12-501, MCA (See No. 15 above).

17. Amendment to MCA §69-14-115 "Investigation, enforcement and report concerning railroad safety laws." (Page 25, Beginning Line 2).

Commission enforcement of railroad safety laws is made permissive by the amendment to strike "shall" and insert "may".

COMMISSION: Oppose. Please see attached Statement of Opposition.

18. Amendment to MCA §69-14-116 "General protection of health and safety on railroads." (Page 25, Beginning Line 22).

Commission regulation of health and safety standards on railroads is made permissive by subsection(1), with the amendment to strike "shall" and insert "may".

COMMISSION: Oppose. Please see attached Statement of Opposition.

19. Amendments to MCA §69-14-202 "Duty to furnish shipping and passenger facilities." (Page 26, Beginning Line 16).

Subsection(1) and (2) are amended to provide that if a railroad maintains and staffs facilities for the shipment and delivery of freight and/or accomodation of passengers, the railroad cannot discontinue or remove any agency, i.e. the station agent, or any station facility without a public hearing before the Commission.

Language is deleted that required railroads to maintain staff and facilities when they were located in cities or towns with populations (according to the most recent U.S. Census) of not less than 1,000.

COMMISSION: Neutral. The Commission has enforced this Section and refused to allow a railroad to close any station facilities when the station was the last one in a county or was located in a city or town with a population not less than 1,000.

The Burlington Northern Railroad Company has sued the Commission in federal district court concerning the constitutionality of the Section. Since the Section is one that the Commission must enforce, the Commission has argued in the suit that the Section is constitutional. There has been no decision in the case as of February 19, 1983.

Commission will abide by the Legislature's policy determination on whether or not to remove the population and last station in the county requirements.

SENATE BILL 436 / PROPOSED AMENDMENT
(MOUNTAIN BELL.)

PAGE 9 line 19

COMMISSION ~~MAY~~ shall order interest to be paid

PAGE 9 line 22

decrease shall be based upon identical standards and shall
be an intermediate agency action subject to

AMENDMENT TO
SENATE BILL 436

On page 9, strike lines 9 through 24 in their entirety and insert:

69-3-304. Temporary Approval of Rate Increases. The commission may, in its discretion, temporarily approve increases or decreases pending a hearing or final decision.

(1) If a temporary increase has been granted by the PSC, and the final decision of the PSC disapproves the increase, in whole or in part, the Commission shall order a rebate to all consumers for the amount collected retroactive to the date of the temporary approval together with a reasonable rate of interest thereon.

(2) A temporary rate decrease can be granted only as a part of a complaint proceeding pursuant to 69-3-321 and 69-3-324 to finally decrease rates. If a temporary decrease has been granted by the PSC and the final decision of the PSC disapproves the decrease, in whole or in part, the commission shall order a surcharge upon existing rates designed to recover for the utility, over a period not to exceed one year, the revenues undercollected as a result of the temporary decrease order.

(3) A party seeking a temporary rate decrease shall make application to the PSC for an order requiring the affected utility to show cause on a day certain, and upon at least thirty days notice, why the temporary rate decrease should not be granted. If the relief sought by the complaining party could affect the interest of parties other than the affected utility the PSC shall also give at least thirty days notice of the application for a temporary rate decrease to such affected parties. The party making the application for a temporary rate decrease must make a prima facie showing of entitlement to the relief requested, in its application, and the PSC shall not issue a show cause order unless such showing is made.



BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES

440 Roosevelt Drive RR 1

AFL-CIO-CLC
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TO:

SUBJ: LEGISLATIVE AUDIT COMMITTEES DECISION TO SUN SET THE
PUBLIC SERVICE COMMISSIONS AUTHORITY OVER RAILROAD
STATION FACILITY CLOSURES (Section 69-14-202 MCA and RAIL
EMPLOYEE SAFETY LAWS.

DEAR

From December 1981, thru December 1982, the following station closures, and
facility removals were requested by Burlington Northern Railroad Company (BN-RC)

TROY, FORTUNE, BROWNING, ST. REGIS, CHOTEAU, CARTER, PORTAGE, BELT,
DARBY, KEVIN, SUNBURST, GALATA, DEVON, LORING, WHITEWATER
WAGNER, DODSON, POPLAR, KALISPELL, WIBAUX, LODGE GRASS, BRIDGER,
BROADVIEW, RAPELJE, COLUMBUS, BIG TIMBER, BOZEMAN, BELGRADE,
MANHATTAN, THREE FORKS, HARRISON, EAST HELENA, PHILLIPSBURG,
FRAZER, SACO, NASHUA, AND HINSDALE, MONTANA.
RICHEY, LAMBERT, FAIRVIEW, BROCKWAY, CIRCLE, TERRY, WHITEHALL,
TWIN BRIDGES, SHERIDAN, ALDER, TRIDENT, TOSTON, and TOWNSEND. A
total of fifty stations.

Presently the Montana Public Service Commission has jurisdiction over the main-
tenance and staffing of railroad facilities. (Section 69-14-202 M.C.A.) Railroads doing
business in Montana must maintain and staff station facilities in communities of a
1,000 or more inhabitants, and at least one station facility in each county where they
operate. Preferably the County Seat. The foregoing stations that did not meet the
thousand population criterion, became vulnerable to closure.

Pursuant to Montana law, the Commission ordered the following stations remain
open: (Sec. 69-14-202 MCA)

TROY (over 1M pop) BROWNING (over 1M pop) CHOTEAU (over 1m pop & County
Seat) FAIRVIEW (over 1M pop) CIRCLE (County Seat) TERRY (County Seat)
BIG TIMBER (over 1M pop & County Seat) WIBAUX (County Seat) WHITEHALL
(Last Station in Jefferson City) COLUMBUS (over 1M pop & county seat)
PHILLIPSBURG (Granite County seat over 1M pop) BRIDGER (last station in
Carbon County)

Stations ordered to remain open with less than one thousand population:

FALLON (remain open during sugar beet harvest 6 weeks)
DARBY (BN withdrew application requesting dismissal)

Stations ordered closed with less than 1,000 inhabitants:

(more reverse side)

FORTINE, DEVON, LORING, WHITEWATER, WAGNER, DODSON, RICHEY,
LAMBERT, BROCKWAY, FRAZER, SACO, NASHUA, HINSDALE, ST. REGIS.

Cases pending disposition are:

CARTER, PORTAGE, BLET, POPLAR, KEVIN, SUNBURST, GALATA, DEVON,
LODGE GRASS, BIG TIMBER, BOZEMAN, MANHATTAN, BELGRADE, THREE
FORKS, HARRISON, WHITEHALL, TWIN BRIDGES, SHERIDAN, ALDER, TOSTON,
TRIDENT, TOWNSEND, EAST HELENA, and KALISPELL.

Pursuant to the Legislative Audit Committees decision to SUN SET the Commissions jurisdiction over station closings. Our members will be directly affected along with our rural communities. Sun Setting, or abolishing Commission jurisdiction over railroad stations will give Burlington Northern CARTE BLANCHE authority to close all stations in Montana.

In 1925, pursuant to the Interstate Commerce Commissions decision in 94 I.C.C. 691 held that:

"We (ICC) found that we lacked jurisdiction over the proposed retirement of a freight and passenger depot." (Cited also in BOSTON TERMINAL CO. REORGANIZATION Finance Docket No. 12625 at p-378 December 15, 1960)

In the Boston Terminal case cited above the I.C.C. stated:


"The Congress has been fully aware that the abandonment of stations is ordinarily a matter wholly with the jurisdiction of the State Regulatory bodies. Indeed as recently as 1968, the Congress made it clear that it did not wish to transfer such jurisdiction to the Interstate Commerce Commission. (H.Rept. No. 1922 85th Congress 2d Session p-12)"

If the Public Service Commissions' jurisdiction is abolished as recommended by the Legislative Audit Committee, a subsequent repeal by implication will be granted to Burlington Northern. Submitting all of our cities, towns etc. to losing vital rail transportation facilities.

Our organization strongly opposes the loss of state jurisdiction. In as much as our members will be re-located to other states located on BN's 29 state network. Tremendous economic impacts would result in our rural and branch line communities.

We humbly seek your support in the 1983 legislative session in retaining the present law.

Truly Yours,


James T. Mular, SLD BRAC

cy: to all Montana members.



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THE CONSTITUTIONALITY OF MONTANA'S STATUTORY REQUIREMENT
TO FURNISH RAIL SHIPPING AND PASSENGER FACILITIES

Douglas Reid Weiner
Legislative Attorney
American Law Division
January 21, 1963

EXECUTIVE SUMMARY

Interest has recently focused upon a certain provision of the Montana Code annotated which requires that railroads operating in Montana must provide shipping and passenger facilities under certain circumstances. The question has arisen as to whether this state statutory provision could present constitutional problems. This report examines the statute from a constitutional perspective. The state statute is evaluated in the context of the commerce clause of the Constitution. The report examines whether the statute interferes with interstate commerce in a manner which is prohibited by the commerce clause and if the statute does not interfere with interstate commerce, then, whether Congress, pursuant to legislative authority under the commerce clause, pre-empted the field of railway regulation by the enactment of the Interstate Commerce Act. In determining whether the Montana statute conflicts with the commerce clause, relevant caselaw was examined and compared to the statute. From our examination, it appears that the statute under consideration is a valid utilization of the state police power.

The doctrine of federal preemption--which requires that federal law overrides any state regulation when there is a conflict between the two--is examined in this report. The report examines the Montana statute for possible preemption by federal law. Federal preemption in the area of law dealing with railroad regulation is examined in detail. The federal statute in question is considered and its legislative history is examined. Relevant ICC administrative interpretations are reviewed for guidance as to the federal statute and its relationship to state law. The so-called Boston Terminal doctrine is examined and is applied to the Montana statute under evaluation. Judicial determinations made subsequent to the Boston Terminal cases are examined and their modifications to the doctrine are discussed.

The report concludes that the Montana statute is probably able to withstand a judicial challenge. While this report cannot anticipate a judicial determination, it appears that a strong argument can be made for the constitutionality of the Montana statute requiring the maintenance of rail facilities in certain circumstances upon the basis of the Boston Terminal rationale. However, a court may not elect to follow the ICC's reasoning and may reach a conclusion at variance with the Boston Terminal reasoning.

Now reads:

"69-14-202. DUTY TO FURNISH SHIPPING AND PASSENGER FACILITIES. (1) Every person, corporation, or association operating a rialroad in the state shall maintain and staff facilities for shipment and delivery of freight and SHALL ship and deliver freight and accomodate passengers in at least one location, preferably the county seat, in each county throughout which the line of the railway passes and at any point upon the line of such railway where there is a city or town having a population, according to the last federal census, of not less than 1,000 inhabitants, provided however, that this section shall not require the maintenance and staffing of such facilities in any county or at any city, town in which such facilities were not maintained and staffed on July 1, 1969.

(2) Nothing in this section authorizes the discontinuance of any facility presently established in any city, town or other location having a population of less than 1,000 without a hearing before the Public Service Commission, as provided by law."

Will read as amended:

"69-14-202 DUTY TO FURNISH SHIPPING AND PASSENGER FACILITIES. (1) Every person, corporation or association operating a railroad in the state WHICH MAINTAINS AND STAFFS facilities for shipment and delivery of freight and WHICH SHIPS AND DELIVERS FREIGHT AND ACCOMODATES PASSENGERS MAY NOT DISCONTINUE any facility presently established in any city, town or other location without a hearing before the Public Service Commission, as provided by law . . ."

SB 436

OPPONENTS COMMENTS TO THE AMENDED SECTION, 69-14-202 MCA

These amendments will no longer compel a railroad to maintain and staff station facilities, nor will it direct railroads to perform the duty to ship and deliver freight. Substituting the word WHICH instead of the present language "SHALL" will ostensibly give railroads the right to argue that they don't ship and deliver freight from any Montana station facility WHICH excludes them from the amended version of this Section.

The word WHICH is an interrogative pronoun; ~~its~~ its legal sense gives railroads

the right to choose, "WHICH STATION DO WE WANT TO MAINTAIN AND STAFF IF ANY??" The statute in its amended form no longer compels railroads to perform a specific public service, because the language deleted from the present law, "SHALL SHIP AND DELIVER FREIGHT" is no longer law. (After all, a railroad is a common carrier of freight). The amendments imply that if a railroad wants to ship and deliver freight it will. There are no provisions requiring the railroads to submit a list of their maintained and staffed facilities located in this state. Arguably they could allege that none of their stations and facilities are used for delivery and shipping purposes.

With the deletion of Section 2 of the present law, compelling public hearings, the Legislative Audit Committee has inserted the words, "MAY NOT DISCONTINUE any facility without hearing." The word MAY is non-compelling, because the railroads could assert in their applications that they do not ship or deliver freight at those facilities. Which would in fact, deny public hearings.

Our organization alleges that the Legislative Auditor did not in fact research the legislative background of the present statute. Nor ~~did~~ the Interstate Commerce's 1925 case (94-ICC-691) wherein the ICC held that the states had jurisdiction over station abandonments. This precedent has been upheld in all cases regarding state station closures. Congress has been reluctant to give the ICC authority or jurisdiction over railroad stations, and facilities. (H.Rept. No. 1922, 85th Congress, 2nd session, p.12)

LEGISLATIVE BACKGROUND

Prior to the creation of the Montana Railroad Commission in 1907, Montana railroad stations were subject to a population criterion. During territorial and early statehood, Montana was subject to a federal statute that required railroads to maintain railroad facilities in platted townsites of 100 or more inhabitants. This statute resulted from the railroads having the RIGHT OF EMINENT DOMAIN. Section 69-14-202 was codified from the 100 population criterion to the present 1,000.

During the 1969 Legislative Session, Senator Skeff Sheehy sponsored SB 202 which is the present law. At that time there were 214 open railroad stations in Montana, located on 8 railroad properties, NP, GN, CBQ, MILW, UP, Soo Line, BAP, and the Montana Western. 27 of these stations were eliminated on the Milwaukee by operation of law and bankruptcy. From 1969 to 1980, 48 stations were closed and 29 consolidated, leaving approximately 110 open railroad stations in Montana. From December 1981 to December 1982, V has applied to remove and close 64 stations. Fourteen stations were denied and 14 were closed. 36 are pending PSC orders, and/or dockets. Of the 14 denied, 12 of them exceed 1,000 population or are the last remaining stations in the county.

Over 90% of the Montana open stations exceed 1,000 inhabitants or are the last station in the county. There are approximately 46 stations that have not been petitioned

for closing. Two of them are located on the U.P., two on the BAP and two on the Soo Line, leaving 40 stations left on the BN for abandonment consideration, and PSE applications.

(SOURCE OF OPEN STATIONS FROM OFFICIAL RAILROAD OPEN AND PREPAY STATION LIST, 1981.)

Service Date: January 18, 1983

DEPARTMENT OF PUBLIC SERVICE REGULATION
MONTANA PUBLIC SERVICE COMMISSION
1227 11th Avenue, Helena, Montana 59620

Transportation Division

NOTICE OF RAIL APPLICATIONS FOR AUTHORITY

Burlington Northern Railroad Company, 176 East 5th Street, St. Paul, Minnesota 55101, has filed the following applications with this Commission.

Docket T-6952	Application to consolidate Opheim and Glentana, Montana dualized agency, its Richland and Peerless, Montana dualized agency, and the agency at Four Buttes with Applicant's agency at Scobey, Montana.
Docket T-6954	Application to consolidate Froid and Homestead, Montana dualized agency, Medicine Lake, Reserve and Antelope, Montana dualized agency, and Redstone and Flaxville, Montana dualized agency with Applicant's agency at Plentywood, Montana.

CAPTIONED SUMMARY OF APPLICATIONS IS ATTACHED

The petitions may be granted unless protests and/or requests for public hearing are received.

Shippers and receivers must mail their written protests and/or requests to the Public Service Commission on or before February 27, 1983.

Copies of the petitions for consolidation and abandonment are available from the offices of Burlington Northern Railroad Company, Suite 1003, First Northwestern Bank Center, Billings, Montana 59101, or may be inspected at the Public Service Commission offices, 1227 11th Avenue, Helena, Montana 59620, during the regular working day.

Montana Consumer Counsel, 34 West Sixth, Helena, Montana 59620, 449-2771, is available to assist the shipping public in these matters.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

THOMAS J. SCHNEIDER, CHAIRMAN

HOWARD L. ELLIS, COMMISSIONER

CLYDE JARVIS, COMMISSIONER

JOHN B. DRISCOLL, COMMISSIONER

DANNY OBERG, COMMISSIONER

DOCKET T-6952

Burlington Northern Railroad Company has filed a petition with the Montana Public Service Commission for authority to consolidate its Opheim and Glentana, Montana dualized agency, its Richland and Peerless, Montana dualized agency and the agency at Four Buttes, Montana station with Applicant's agency at Scobey, Montana.

Applicant states that in an effort to reduce the cost of transportation services and improve productivity, Applicant seeks to consolidate the above-described agency operations at Scobey, Montana. Applicant states that the needs of the shipping public can be adequately served through Applicant's Scobey, Montana agency. Applicant further states that no patron would be required to travel to Scobey to conduct its business with Applicant, as Applicant will establish toll-free telephone service for Applicant's patrons and will make suitable arrangements for the execution of bills of lading. Applicant states that there will be no discontinuance or interruption of Applicant's train service to its patrons being served by the above-named agencies.

Applicant further requests authority to sell, remove, or otherwise dispose of the facilities at the agencies which Applicant seeks to consolidate with its Scobey, Montana agency.

DOCKET T-6954

Burlington Northern Railroad Company has filed a petition with the Montana Public Service Commission for authority to consolidate its Froid and Homestead, Montana dualized agency, its Medicine Lake, Reserve and Antelope dualized agency, and its Redstone and Flaxville dualized agency with Applicant's Agency at Plentywood, Montana.

Applicant states that in an effort to reduce the cost of transportation services and improve productivity, Applicant seeks to consolidate the above-described agency operations at Plentywood, Montana. Applicant states that the needs of the shipping public can be adequately served through Applicant's Plentywood, Montana agency. Applicant states that no patron would be required to travel to Plentywood to conduct its business with Applicant, as Applicant will establish toll-free telephone service for Applicant's patrons and will make suitable arrangements for the execution of bills of lading. Applicant further states that there will be no discontinuance or interruption of Applicant's train service to its patrons being served by the above-named agencies.

Applicant further requests authority to sell, remove, or otherwise dispose of the facilities at the agencies which Applicant seeks to consolidate with its Plentywood, Montana agency.

DEPARTMENT OF PUBLIC SERVICE REGULATION

MONTANA PUBLIC SERVICE COMMISSION

APPLICATION TO ESTABLISH A)
CENTRALIZED CUSTOMER SERVICE)
CENTER AT HAVRE, MONTANA.)

NO. _____

PETITION

COMES NOW Applicant, Burlington Northern Railroad Company, and files this its Application to Establish a Centralized Customer Service Center at Havre, Montana, and as grounds therefor would show the following:

I.

Applicant seeks authority to establish a Centralized Customer Service Center at Havre, Montana, to serve patrons at the stations and blind sidings of Havre, Laredo, Box Elder, Harlem, Savoy, Chinook, Zurick, Lohman, Big Sandy, Virgell, Lippard, Chappell, Kremlin, Gildford, Burnham, Fresno, Hingham, Rudyard, Inverness, Joplin, Chester, Beulow, and Tiber, Montana. These stations are currently being served by agencies at Havre, Harlem, Chinook, Big Sandy, Chappell, Chester, and the dualized agencies of Kremlin-Gildford, Hingham-Rudyard, and Inverness-Joplin, Montana, all of which Applicant proposes to discontinue, and to dispose of the depot buildings, except for Havre. Applicant would further show that the blind sidings of Hogeland and Turner are presently handled by the agency at Harlem, Montana, and Applicant proposes to assign these two blind sidings to the agency at Glasgow, Montana, for handling.

II.

As the basis for this proposal, Applicant would show that establishment of a Customer Service Center at Havre, Montana, will provide improved, more efficient, more economical service to the shipping public. The proposed Customer Service Center will offer increased hours of service to the public at a multi-employee, computer-assisted facility, which will, among other things, expedite car ordering and placement and will provide to the public direct and immediate access to the latest information concerning car location at no extra cost to the public. Applicant's patrons may contact the Customer Service Center direct via a toll-free telephone line, night and day, seven days a week. No patron will be required to travel to Havre to transact business with Applicant, and there will be adequate personnel at Havre to provide personal contact and service to applicant's patrons as needed.

III.

Applicant would further show that the establishment of the Customer Service Center at Havre, Montana, will provide a more efficient rail operation, increased productivity, and will assist in reducing Applicant's operating expenses which, of necessity, must eventually be borne by the shipping public.

WHEREFORE, premises considered, Applicant requests that its Application be granted and that Applicant be granted such other and further relief to which it may be justly entitled.

DATED this 24th day of January, 1983.

BURLINGTON NORTHERN RAILROAD COMPANY

By *Kent Koolen*
K. KENT KOOLEN
1003 First Northwestern Bank Center
Billings, Montana 59101
(406) 256-4454
Of Attorneys for Applicant

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 24 day of January, 1983, the foregoing Petition was duly served by mail upon the following-named individuals by placing a copy thereof this date in an envelope with postage prepaid and addressed to:

Montana Public Service Commission (original and 6)
1227 - 11th Avenue
Helena, Montana 59620

Montana Consumer Counsel
34 West Sixth Avenue
Helena, Montana 59620

Mr. James T. Mular
440 Roosevelt Drive - RR #1
Butte, Montana 59701

Russell D. Pulicio

City of Cut Bank

113 East Main

Cut Bank, Montana 59427

STATEMENT by Joe Meagher, Mayor, Cut Bank, Montana, before the Senate Business and Industry Committee, February 19, 1983.

RE: Senate Bill No. 436

Our problem is that applying to the Public Service Commission for a rate increase is a very expensive and time consuming procedure.

We must engage accountants, engineers, and attorneys to properly research, prepare and present our case.

In smaller cities, the cost of a rate hearing could approach the annual increase in operating costs of the utility.

In 1982, we increased our water rates in Cut Bank by 12%. The paper work required for this increase was very simple and inexpensive.

Except for preparing a few legal forms by our City Attorney, all of the work was completed by our regular staff.

Cost to the City for this increase was under \$500.00.

For these reasons the City of Cut Bank supports Senate Bill 436.

Joe Meagher

I speak in support of S. Bill 436, especially those sections dealing with Municipal utilities.

The provision enacted last session has proven beneficial to Billings.

1. The close proximity of the local officials to the consumer provided more input for the policy maker, thus eliminating most protest. Local officials & staff have held informational meetings with senior citizens thus helping people understand why an increase is necessary. Information has been disseminated through news letters. At the last public hearing on a rate increase, no one appeared to protest.

2. Preparation costs, ~~both~~ ^{expense} in time of rate studies imposed by the PSC has been eliminated.

3. Local officials have become more informed & more involved in the utility department's requests.

I feel that the local officials are in a better position to understand the need for rate increases & also are in a better position to impart this information to the consumer, I urge your support.

Lucille Milles, Billings City Council Member

2/19/83

EXHIBIT NO. 12

NAME: Alec Hansen DATE: 2-19-83

ADDRESS: 241 Anderson Blvd.

PHONE: 443 7601 (home) 442-8768 (business)

REPRESENTING WHOM? Montana League of Cities and Towns

APPEARING ON WHICH PROPOSAL: SB-436

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: THE SECTIONS THAT RELATE TO MUNICIPAL UTILITY DE-REGULATION ARE STRONGLY SUPPORTED BY ALL 121 MEMBERS OF THE LEAGUE. THIS BILL HAS WORKED WELL IN PRACTICE. THE AUTHORITY TO INCREASE RATES 12% HAS BEEN USED BY 72 COMMUNITIES, AND THE MINOR AND ISOLATED PROBLEMS THAT HAVE COME UP ARE COVERED BY THE AMENDMENTS ON PG 10 LINES 14 AND 15 - AND PG 11 LINES 1 THROUGH 7. THESE AMENDMENTS WERE SUGGESTED BY THE PSC, AND AGREED TO BY THE CITIES TO ELIMINATE PROCEDURAL QUESTIONS ON THE APPLICATION OF THIS AUTHORITY. THE BILL PASSED IN 1981 WORKS - IT PROVIDES REASONABLE LOCAL CONTROL, PUBLIC INVOLVEMENT IN THE DECISION PROCESS AND A METHOD OF REASONABLE RATE ADJUSTMENT THAT WILL ALLOW CITY UTILITIES TO PROVIDE SERVICES AT A FAIR COST.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME John G. Palagi BILL NO. SB 436
ADDRESS 2820 5 Ave North DATE 2/9/83
WHOM DO YOU REPRESENT MONTANA SOLID WASTE CONTRACTORS ASSOC.
SUPPORT OPPOSE AMEND 6 AMENDMENTS

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

REGARDING CLASS D -

HB. 73 HAS BEEN SUPPORTED BY

THE PSC, THE MSWCA - , AND LOCAL
RESIDENCE OF LEWISTOWN, MT. D

THINK THE AMENDMENTS SHOULD BE
MADE BECAUSE HB. 73 WILL INTRODUCE
COMPETITION AS A FACTOR IN GRANTING
A LIC.

NAME Michael E. Zimmerman BILL NO. SB 436
ADDRESS 40 E Broadway Butte MT DATE Feb 1983
WHOM DO YOU REPRESENT Montana Power Co.
SUPPORT OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

SB, page 8, line 12 amends §69-3-204 to include authority to levy fees for filing "applications." MPO believes the cost of regulation should be covered through appropriation because regulation is properly a responsibility of government. This section should be amended.

Otherwise, MPO recognizes regulation is an essential part of utility service. MPO supports the reestablishment of the PSC.

NAME Sandra Mintz BILL NO. SB 436
ADDRESS Tewinstown, mt DATE 2-19-83
WHOM DO YOU REPRESENT self
SUPPORT _____ OPPOSE _____ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

On the rate regulation section in section 69-12-501, insert the wording in the area of 69-7-101 by allowing class B carriers the right of a rate increase the same as allowed cities without a costly rate hearing. If the increase is over 12% then a formal hearing will need to be held.

We support retaining the P&C but feel the above is an appropriate amendment at this time. I am sure if rate regulation is not handled in this session it will come up again next session.

We approve allowing Class B carriers their existing rates under rate regulation with a fair annual allowance for increases without a hearing.

from the Federal Financing Bank at Treasury Note Rates and place these funds in equity investments in new business -- a resource unavailable to any other kind of capital company.

NAME JOHN LOPACH BILL NO. SB 460

ADDRESS P.O. BOX 1273, GREAT FALLS 59403 DATE 2/19/83

WHOM DO YOU REPRESENT ECONOMIC GROWTH COUNCIL, G. F.

SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

- ① WHILE CAPITAL, ESPECIALLY EQUITY CAPITAL, IS NEEDED IN MONTANA, IT IS NEEDED VIA CHANNELS THAT ARE PROFESSIONAL AND WELL-REGULATED. EQUITY CAPITAL INVESTMENTS ARE BY THEIR NATURE HIGH-RISK, USUALLY UNCOLLATERALIZED, AND REQUIRE CARE AND FORESIGHT.
- ② SMALL BUSINESS INVESTMENT COMPANIES, LICENSED UNDER THE SMALL BUSINESS INVESTMENT ACT OF 1958, HAVE BEEN REGULATED WITH GREAT SUCCESS FOR 25 YEARS. THEY ARE A SUCCESS.
- ③ EFFORTS IN MONTANA TO MAKE EQUITY CAPITAL AVAILABLE SHOULD TAKE THE FORM OF ENCOURAGEMENT OFFERED THE PRIVATE SECTOR TO ESTABLISH PROFESSIONAL INSTITUTIONS FOR THE PURPOSE.
- ④ OTHER BILLS HAVE BEEN PROPOSED THIS SESSION TO ENCOURAGE THE FORMATION OF "CAPITAL COMPANIES" IN THE PRIVATE SECTOR (WE FAVOR SBICA RATHER THAN "CAPITAL COMPANIES") AND TO ENCOURAGE THE "DEVELOPMENT CREDIT CORPORATION OF MONTANA" TO MAKE EQUITY INVESTMENTS.
- ⑤ WE URGE THE COMMITTEE TO SUPPORT THESE PRIVATE SECTOR EFFORTS RATHER THAN A BILL THAT WOULD ESTABLISH EQUITY INVESTMENT FACILITIES ~~UNDER~~ STATE GOVERNMENT.
ATTACHED TO

John Lopach

NAME F.H. Boles BILL NO. SB 460
ADDRESS HELENA DATE 2/19/83
WHOM DO YOU REPRESENT MONTANA CHAMBER
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

THIS BILL PROVIDES FOR A STATE OPERATED INVESTMENT COMPANY TO PROVIDE RISK AND EQUITY CAPITAL.

THIS FUNCTION IS MUCH BETTER PROVIDED THRU THE PRIVATE SECTOR. INDEED THIS LEGISLATURE IS CONSIDERING VARIOUS BILLS TO MAKE THE MONT. DEVELOPMENT CREDIT CORP. A MORE VIABLE EFFECTIVE TOOL TO MEET THE CAPITAL NEEDS OF MONTANA.

THE BUILD MONTANA PROGRAM AUTHORIZED THRU ADDITIONAL LEGISLATION THE FORMATION OF CAPITAL COMPANIES TO DO JUST WHAT THIS BILL CALLS FOR BUT IN THE PRIVATE SECTOR.

WHERE WILL THE FUNDS COME FROM - THEY COME FROM WHAT IS NOW GENERAL FUND MONIES. THERE ALREADY FAR MORE DEMANDS ON THOSE MONIES THAN CAN BE MET WITHOUT FUNDING WHAT RECOGNIZED TO BE A NOTERIAL DORK BARREL OPERATING UNDER THE COURSE OF ECON. DEVELOPMENT.

DATE _____

COMMITTEE ON _____

BUSINESS & INDUSTRY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Bill Romine	Solid Waste Contractors Assn	SB 436	Amend & Support	
Opal Winekrenner	Public Service Commission	SB 436	Support/Amend.	
John Palagi	Mont. Solid Waste Contractors	SB 438	AMEND & Support	
James T. Muller	Boo Rwy CRTS	SB 436	AMEND	X
LARRIS GULLICKSON	UNITED TRANSPORTATION UNION	SB 439	AMEND	X
Elmer Fowler Anderson	Bozeman City Commission	SB 436	Support	
JA Bales	Montana Chemists	SB 460		X
W. HYER & J. W. GATES	MOUNTAIN BECC	SB 436	AMEND	
Renee Brewer	Nature Sav. Adj. Assoc.	SB 436 460	✓	
Ed Nelson	City of Billings		✓	
Lynne Mills		SB 436	✓	
Ann Spack	Economic Growth Council	SB 460		X
Ben Hardahl	Mont. Motor Carriers Assn	SB 436	✓	
Bill BRASNER	MT RR ASSN	SB 436	✓	
DW Sault	- - -	-	-	
W. Brown	" " "	" "	Amend	
Paul H. Pestarica	State Rep.	SB 436		X
Al Johnson	City of Great Falls	SB 436	X	
Mike Young	City of Missoula	SB 436	✓	
Bill Verwolf	City of Helena	SB 436	✓	
Leon Stalcup	City of Missoula	SB 436	X	
Nancy Cheng	PSC	SB 436	X	
Jane Pain	Mont. Camera Comm.	SB 436	✓	
Don Reed	MEIC	SB 436	✓	

WITNESS STATEMENT

Name Bill Romine Committee On B & T
Address Helena Date 2-19-83
Representing Solid Waste Contractors Assoc Support X
Bill No. S.B. 436 Oppose _____
Amend X

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. the proposed amendments do two things:
 - (1). keep in existence the present law concerning cities & counties contracting with a private carrier. this bill, without the amendment, would be similar to H.B. 186. This bill was fully heard & argued in the house & the bill was tabled.
 - (2). The second amendment addresses rate regulation. This is not necessary as a result of H.B. 73 which has passed the house & second reading in the senate. It provides for competition and therefore rate regulation is unnecessary.
- 2.
- 3.
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

NAME Tom Schneider BILL NO. SB 436
ADDRESS 1227 11th Ave. DATE 2/19/83
WHOM DO YOU REPRESENT Montana PSC
SUPPORT ✓ OPPOSE _____ AMEND ✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: *The Montana PSC has provided a comprehensive summary of this Audit Committee Bill which is presented to the Committee.*

NAME: OPAL WINEBRENNER DATE: 2-19-83

ADDRESS: 1227 11th Ave.

PHONE: 449-4782

REPRESENTING WHOM? Public Service Commission

APPEARING ON WHICH PROPOSAL: SB 436

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: See attached PSC Summary of SB 436

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME Bill BRASHER BILL NO. JB 436

ADDRESS 1001 1st NW BANK CENTER DATE 2-19-83

WHOM DO YOU REPRESENT BN AR CO

SUPPORT OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME: Ben Havidahl DATE: 2/19/83

ADDRESS: Helena

PHONE: _____

REPRESENTING WHOM? Montana Motor Carriers Assoc

APPEARING ON WHICH PROPOSAL: SB 436

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: Montana Motor Carriers Assoc supports the reestablishing

of the Mont. Public Service Commission and the continued regulation

of the intrastate motor carrier industry. MMCA does not

object to the PSC establishing fees for authority applications

filings, annual report fees, fees for tariffs, or the annual

fee assessed for motor carriers, now set by statute at \$5,00

per unit. We particularly support the New Section, Section 3 on

page 7 of the bill that requires the "Fees charged by the Com-

mission must be commensurate with the costs incurred

in administering the function for which the fee is charged"

NAME John Albe BILL NO. 436

ADDRESS 406 Fuller DATE _____

WHOM DO YOU REPRESENT MD4

SUPPORT _____ OPPOSE _____ AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME JAMES T. MULAR BILL NO. SB 436
ADDRESS Butte MT DATE 2-19-83
WHOM DO YOU REPRESENT Publ. Clerks
SUPPORT _____ OPPOSE _____ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Delete amended provisions of section
69-14-202 MCA - RESTORE THE
LANGUAGE OF THE PRESENT
LAW!

NAME MORRIS W. GULLICKSON BILL NO. SB 436

ADDRESS LIVINGSTON, MT. DATE 2/19

WHOM DO YOU REPRESENT UNITED TRANSPORTATION UNION

SUPPORT _____ OPPOSE X AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WE ~~OPPOSE~~ THE UNITED TRANSPORTATION UNION OPPOSE THE WHOLE BILL AND WOULD LIKE IT KILLED AND RETURN THE PSC AS IT IS.

IF THIS BILL PASSES WE WOULD LIKE TO SEE AN AMMENDMENT PAGE 25 - LINE 22 RETURNED TO SHALL HAVE FULL AUTHORITY INSTEAD OF MAY

THE UNITED TRANSPORTATION UNION REPRESENTS THE CONDUCTORS, TRAINMAN, SWITCHMAN, ENGINEERS, & FIREMAN WE WANT THE PSC TO HAVE FULL AUTHORITY IN ENFORCING THE SAFETY & HEALTH RULES AND NOT A MAY ENFORCE SITUATION. WE WORK UNDER THESE RULES AND WANT THEM ENFORCED.

WE HAVE HOPE FOR THE STATE TRACK INSPECTOR AS IT IS IN THE PSC BUDGET & THE GOVERNOR'S BUDGET. THIS MAN NEEDS FULL AUTHORITY, HE WILL INSPECT BRANCH LINES THAT THE FEDERAL RAILWAY AUTHORITY DOES NOT NOW - THE FRA IS UNDER STAFFED AND UNDER FUNDED AND CANNOT ADDRESS HEALTH & SAFETY BECAUSE OF THIS THEY BASICALLY WORK ON SAFETY OF ROLLING STOCK.

NAME Dennis Lapaach BILL NO. 436
ADDRESS Box 5124 Heber DATE 2/19/83
WHOM DO YOU REPRESENT Northwestern Tel. Systems, Inc.
SUPPORT _____ OPPOSE _____ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME JOE MEAGHER BILL NO. 436

ADDRESS CITY HALL COT BANK, ALA DATE 1-19-83

WHOM DO YOU REPRESENT CITY OF COT BANK

SUPPORT OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Lurilla Mills BILL NO. 436
ADDRESS 1908 9th. St. W Billings DATE 2-19-83
WHOM DO YOU REPRESENT City of Billings
SUPPORT OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Anne Fowler Anderson BILL NO. SB 436

ADDRESS 1502 South Black DATE 2/19/83

WHOM DO YOU REPRESENT Bozeman City Commission and city manager

SUPPORT OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Koree Brewster BILL NO. 436 + 410
ADDRESS P.O. box 423 DATE Feb 17
WHOM DO YOU REPRESENT Montana Senior Citizens Association
SUPPORT OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: