

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By Rep. Bob Pavlovich, on February 15, 1989, at 8:00 a.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Paul Verdon and Sue Pennington

Announcements/Discussion: None

DISPOSITION OF HOUSE BILL 565

Motion: Rep. Smith moved DO PASS.

Amendments, Discussion, and Votes: Rep. McCormick asked if there were amendments to the bill. Rep. McCormick moved the amendment. Rep. Pavlovich said the amendment was presented by the League of Cities and Towns, on page 1, line 21 after "grants" they want to strike "funding for the grants and loans must come from 50 percent of the funds and the local impact account established in 19-6-202" and insert after "grants" " separate public works account funded by 50 percent of the local impact money as provided by 19-6-202 is established to finance the public works grant and loan program". Paul said the substance was right but he would have to rewrite it. Rep. McCormick moved the amendments. Rep. Johnson asked if this amendment would eliminate the coal board from overseeing these funds? Rep. Pavlovich said they would still oversee the funds. Paul and Rep. Johnson understood it to take the 50 percent out of the impact fund and put it in a separate fund and be supervised by someone else. Rep. Johnson said if this is the case he will have to oppose the amendment. Paul said the amendment could be written so the coal board is required to supervise the funds, if that is your intention. Rep. Johnson thinks the money should be administered by the coal board not the leagues of cities and towns.

Rep. Glaser said he thought the Housing Authority was going to supervise the money. Rep. Pavlovich said the coal board will supervise the money. Paul thought it would be

appropriate to allow him time to work up the amendments so they do exactly what the committee wants them to do.

Rep. Smith withdrew his motion and Rep. McCormick withdrew his motion.

Recommendation and Vote: None

DISPOSITION OF HOUSE BILL 576

Motion: Rep. Smith moved DO PASS.

Amendments, Discussion, and Votes: Rep. Smith said he had an amendment to the bill. Rep. Smith went over the amendments. See the attached copy for details of the amendments. Rep. Bachini asked if the amendment allows a certain specified time that they can go on with these machines before they have to be replaced? This is what I would like to see in the bill. Rep. Smith suggested a two year extension. Rep. Pavlovich asked if Rep. Smith wanted the bill to read June 30, 1991, but it doesn't say that in the amendment. Rep. Smith said it did not. Rep. Pavlovich said there is no termination date. Rep. Pavlovich asked Rep. Smith if he would like to put in the amendment that a two year period be granted? Rep. Smith said he would. Paul said this act would terminate on June 30, 1991. Rep. Smith said the operators can't get the retrofits now and this will give the people time to get the retrofit built and its price to where the operators can afford the retrofit.

Rep. Thomas asked if the amendments would continue to allow old machines to switch or whatever you call it, that erases the credits on the board? Mr. Akey said the amendments would not eliminate the so called knock off switches. Mr. Akey said if you take off the knock off switch you have no way of canceling the credits on a machine, you have no way of paying off the player, you defeat the purpose of continuing play with the used keno machines.

Rep. Smith amended his motion to change the termination date to December 31, 1990. The amendment DO PASS 15-1 vote.

Recommendation and Vote: HB 576 DO PASS 14-2 vote.

HEARING ON HOUSE BILL 635

Presentation and Opening Statement by Sponsor:

Rep. Hoffman, House District 74. This bill will require the state electrical board to accept maintenance work in fulfillment of the requirements for a master electrician's license; amends Section 37-68-304, MCA; and provides an immediate effective date.

Testifying Proponents and Who They Represent:

Charlie Rossiter, Sheridan

Proponent Testimony:

Mr. Rossiter stated that he supports this bill. I have approximately 10 years electrical time. I think probably only 2 years count for licensing in this state. I completed college in Spokane in industrial electricity and the state of Montana will not accept it towards licensing. I do feel this is an unfair law. There are a lot of people like myself within the state.

Testifying Opponents and Who They Represent:

Jim Lewis, State Electrical Licensing Board
Thomas Herzig, MT Electrical Contractors Assoc.
Bill Egan, MT Electrical Conference

Opponent Testimony:

Mr. Lewis said the board had asked him to appear before the board and oppose the bill. A person with a master electrical license is able to design and supervise the electrical portion of any kind of facility, including a hospital with x-ray machines, cat scans, and so on, whatever type of electrical equipment might be installed in that hospital. He is also given a license to design electrical system of a high rise building which might be 10 stories high or more, an oil refinery, or any kind of complex facility that could be constructed in the state of Montana. It is the board's position based on their collective wisdom that maintenance experience does not qualify a person to do this type of work. See exhibit 3 for more information from Mr. Lewis.

See exhibit 2 for Mr. Herzig's written testimony.

See exhibit 1 submitted by Rep. Glaser on behalf of Mr. Kenneth L. Olsen.

Mr. Egan stated that he does not support this bill. I started in the maintenance field for the Anaconda Company in Butte. I have had one of the most extensive training periods that I have ever had since I started in the industry. I left this and went into construction phase of electrical work. That is like apples and oranges. I had to virtually start all over again. I even had to relearn things and also unlearn other things. It took me at least 4 years to establish myself in the construction field. You need to work in the industry under close supervision by other people in the industry.

Questions From Committee Members: Rep. Simon asked Mr. Egan if because a person had worked with complicated equipment in maintenance that would not count toward him taking the master license test? Mr. Egan said no because they need to be able to demonstrate that they have had five years experience in layout, planning, supervising, repairing apparatus and so on. Rep. Simon said the bill doesn't say it has to be super complicated, it just says that you have to have this experience. If an employer gave a letter saying the person has experience in layout, planning, supervising, and doing all these kinds of things, wouldn't this person then meet the qualifications under the board and be able to take the test? Where someone like you that had taken care of really complicated things but in maintenance would not be allowed to? Mr. Egan said I don't have any problem with that. It doesn't have to do with laying out and installation of heat, light, and power.

Rep. Glaser asked Rep. Hoffman about page 3 it talks about 37-68-103 and (1) and (2), now the way I understand (1) that is electrical maintenance people that are employed by public utility or the city that are working in city buildings, (2) plant electric or electric concerns that are hired full time by somebody, so if somebody was working as a journeyman on barns, housing, and that sort under a master, then they would not be covered under this? Exactly who you define as being able to become a master? Rep. Hoffman said the intent of this bill primarily was to make sure that the people who have the experience primarily described in (2) that maintenance electricians doing maintenance work in the business premises of their employer, are primarily the people we are referring to. We did have also (1) which refers to public utility type electricians. Rep. Glaser said in the statement of intent it only references the exemption 1 not exemption 2 in line 16 of page 1. Rep. Hoffman said just this morning I brought this to the attention of the director and asked him if we should not address this part directly. He thought it was covered in the bill, but if not we would discuss it here.

Closing by Sponsor: Rep. Hoffman said this bill is just a matter of fairness. The only thing this bill addresses is who will be qualified to take the test to become a master electrician. Our contention is that many of these people who have been doing maintenance work have far more complicated and complex experience than people who have done nothing but layout work or construction work. That is the gist of the whole bill; it is just a matter of fairness. I want our electricians to be qualified, but I want everybody to have a fair chance to take the test.

HEARING ON HOUSE BILL 613

Presentation and Opening Statement by Sponsor:

Rep. Menahan, House District 67. This bill would allow the playing of the card game "21" for just 3 months only this summer for our centennial year. It will be left up to the local governments to allow or not allow the game to be played.

Testifying Proponents and Who They Represent:

Cecil Deming, Helena
Rep. Bob Pavlovich, Butte

Proponent Testimony:

Mr. Deming thought the game should be allowed all the time not just for this summer.

Rep. Pavlovich stated that he supports this bill.

Testifying Opponents and Who They Represent:

Mignon Waterman, MT Association of Churches
Shelly Laine, City of Helena

Opponent Testimony:

Ms. Waterman stated that her association is opposed the expansion of gambling in Montana. We are especially concerned about HB 613. In the interim study last year many recommendations were made. One was that no new gambling be established in the state of Montana without at least a year of study and development for rules and regulations, that was modified to a period of 6 months to allow the regulatory agencies opportunities to develop rules and regulations to

monitor games.

Ms. Laine stated that the city is opposed to this bill.

Questions From Committee Members: Rep. Bachini asked Rep. Menahan if this were to be passed what does the local government get from it? Rep. Menahan said it is up to the local governments to put it in, if a city doesn't want it and another does, they should have it for the summer. Rep. Bachini asked if the local government would layout rules and regulations, also the commission? Rep. Menahan said yes.

Rep. Simon asked if Rep. Menahan only wanted those with liquor licenses at bars be able to have "21". Why should we continually add gambling to a select section of the Montana economy? Mainly the bars, yet there is a limitation of the number of people that are allowed to get into that business. We are expanding the opportunities for the people in the bars to make money off of gambling, yet we have a closed shop. Rep. Menahan said some things are restricted, not only in this area. I'm just trying to put it where the gambling is now. Where the restrictions are, where it can be enforced and one thing about the "21" game, I have been in the bar business and run the "21" game and I lost money.

Closing by Sponsor: Rep. Menahan said he is not trying to expand gambling or assist anyone. We have card games going on now, I'm not trying to get us like Nevada. This will be just for a 3 month period and then the game is over. It will be up to the local governments.

HEARING ON HOUSE BILL 645

Presentation and Opening Statement by Sponsor:

Rep. Addy, House District 94, Billings. This bill revises the allowable interest and charges that may be collected by pawnbrokers; requires pawnbrokers to surrender stolen property to peace officers upon request; provides that pawnbrokers who dispose of stolen property after being asked to surrender the property commit the criminal offense of theft; amends Sections 31-1-401 and 31-1-407, MCA; and repeals Sections 31-1-403 through 31-1-406, MCA.

Testifying Proponents and Who They Represent:

None

Proponent Testimony:

None

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Simon asked Rep. Addy to explain subsection 4 on page 2 of the bill, you have the interest charge and then this fee also. Rep. Addy said they tie this back to sub (a), we cannot restrict them to anything less than \$1 per transaction or \$15 per value of transaction.

Rep. Glaser asked Rep. Addy who was going to take care of the poor people? If the interest rate goes back up to 18 percent for the good guys, then who will take care of the poor people. Rep. Addy ask if he said 18 percent? Rep. Glaser said the rate was up to 21 percent for farmers who had good portfolios. Rep. Addy said if you prefer to state the bill in terms of a certain percentage over prime that would be fine with me. One and one-half percent per month over prime, for instance, would be about what the first figure is, the two and one-half percent per month. We can amend the bill. Rep. Glaser said the one and one-half percent above prime would probably be similar to what Rep. Smith would pay and me because I don't have very many resources I would be two percent. Rep. Addy said one and one-half percent above prime, that is exactly what is being charged here, is 18 percent per year above prime. That isn't a real fleece as far as I am concerned.

Closing by Sponsor: Rep. Addy said he closed.

HEARING ON HOUSE BILL 626

Presentation and Opening Statement by Sponsor:

Rep. Whalen stated that this bill is a housecleaning bill, simple bill, and third it is a very important housecleaning bill. This bill relates to the situation in regard to station agents on railroads in Montana. This bill will define public convenience and necessity with respect to the duty of a railroad to furnish shipping and passenger

facilities; and amends Section 69-14-202, MCA.

Testifying Proponents and Who They Represent:

James T. Mular, State Legislative Director, Transportation
Communications Union, Butte
Richard Van Aken, TCU, Missoula

Proponent Testimony:

See exhibit 1 for Mr. Mular's written testimony.

Mr. Van Aken stated that in the particular case Mr. Mular mentioned, the Superior hearing, I attended that hearing as well as all MRL hearings that went on from Darby to Thompson Falls and in the Superior hearing, in particular, I think it was the first place where it became very clear to me what we were dealing with was what I consider a misinterpretation of the intent of the law when it comes to public convenience. In Superior we had preponderance of testimony from community members, people who had to cross the tracks, and had common contact with the agent there. We thought we had a preponderance of testimony in favor of keeping that agency. Instead, the lack of shipper's testimony did us in. I would like to point out that what we are dealing with here in this stage of the game is that public convenience and necessity is really interpreted as a shipper's convenience and necessity and we believe that the public does have some right to input on these agency hearings. We recognize there will always be cases where there is just no particular reason for keeping the agency. When we run into a situation like Superior and we find the definition that we thought we were working under is totally different it takes it right out of our hands. We are asking you to put the public back into public convenience and necessity.

Testifying Opponents and Who They Represent:

Orson Murray, Operations Manager of Montana Rail Link
John Grawell, Superintendent, Montana Rail Link
C. E. Keeler, Train Master, Burlington Northern Railroad

Opponent Testimony:

Mr. Murray opposes this bill. There has been a move to eliminate these agents because of the cost concept. These costs are all borne by the shipping public in the final analysis. Yard clerks must be defined from online clerks. Online clerks did perform roll-by inspection of trains. Yard clerks never did. If there was a problem they tried to contact the train and stop them or alert them to the

problem. Online clerks usually work from 8-5 p.m. approximately 250 days a year, excluding Saturdays, Sundays, and holidays. As a safety factor these men play a very minimal role. Much of the safety area in the railroad industry has been preempted. The passage of this bill would put the PSC in direct conflict with others.

Mr. Grawell thinks this bill ties in with what happened in Helena on February 2nd. There has been a lot of speculation of what or may not have taken place in the incident in Helena on that date.

I would like to try to shed a little light and how that ties in with what an agent may or may not have done under those circumstances.

Basically, the cause of the accident primarily was that the air brakes were not properly applied at Austin. All the air braking pressure which is required by the rules we use was not applied. We do not require hand brakes to be applied unless the train is going to be left unattended. That was not the case at all. The crew was in the immediate area, within 200 feet of the train, but failed to observe the train constantly. Air brake pressure from the train line tends to leak out in sub-zero temperatures. The gaskets shrink, there is more leakage, and when you apply the air brakes, it has to be done as prescribed by the rules and the train is placed in emergency so that we get the maximum utilization of pressure.

There have been allegations from the press that a caboose, somehow, would have prevented this from occurring. I assume the people that make those allegations think that someone on the caboose could have set the emergency air brakes. It takes about 45 pounds of train line pressure to be able to initiate an emergency application of the train brakes. By the time the train started to move the brakes applied was below that pressure, matter of fact, it was down to 50 and leaking when the utility employee got the engines off. With that pressure, an emergency application of the brakes could not have been applied. This would leave anyone on the caboose little option other than to jump or ride the collision. Hand brakes would be out of the question, contrary to what you see in the movies. We no longer have running boards along the top of the cars. It would be impossible for anyone to go from car to car applying hand brakes on a train traveling, in our estimation, in excess of 60 miles per hour at times, at temperatures of 37 degrees below zero, the cold weather hampering their efforts. We very likely would have had fatalities if we had had an occupied caboose.

Let me deal a little bit more with how an agent would or would not have affected this incident. First of all the

agent would not have even been on duty at that time of morning. If there had been one, he would not have had any interaction from the event other than possibly being in the position to be injured at the station.

Agents work from 8 to 5 and in most cases from the safety aspect they are in position to observe trains a maximum of 23 percent of the time. During the same hours, section workers, welders, maintenance, track inspectors are on the track inspecting trains and in most cases on both sides. The agent can only see one side. In addition, inbound crews of trains and through transit points roll the train by for the outbound crew as they leave town to inspect the train. Typically on the MRL, they will meet from 4 to 12 trains on a run. In each case the trains being met inspect each other. The agents in the past could detect hot boxes when the old friction type bearings were used because they would catch on fire. Over 90 percent of the cars on the railroads today have roller bearings. You cannot detect problems with roller bearings down inside the track. I defy anybody to tell me that roller bearings are going out as it goes by. The only way we can detect those is with hot box detectors. This is a mechanical device which senses the heat of the axles as it goes over the device and by radio indicates to the crew that they have a hot box and where it is located on the train. We have these located at least every 40 miles over main lines and in some cases as close as 20 miles.

The Brotherhood of Locomotive Engineers who represent all the operating crafts on MRL property have given us unanimous support in our position that agents are merely an unnecessary duplication in anything that can contribute to the safety of the train. We have, in fact, the president of their local in Laurel, will testify on behalf of our position in the investigation before the Public Service Commission. We have, in fact, discussed the safety in the PSC hearings. We have not had one shipper protest in the time we have been involved. To the contrary, we have a lot of busy shippers who took time from their schedules to testify in our behalf here. We have one protest from the Public Service, volunteer fireman in Superior who was concerned about the issue of furnishing information on trains in the event there was a derailment, etc. I think once he understood that the engineer has all the information on what was on the train rather than the agent, his concerns were addressed.

Our crew has excellent communication with our dispatching system in Missoula who maintain at their fingertips, telephone numbers of emergency responders in every community along our line. When they reach them they give them the information they need. An agent would have to call in to get the information and then pass it back to the responder if the phone works. As it did not the other morning in Helena, the phones were out. This would cost

valuable time and detract rather than enhance safety. What was done with no agent present, was the crew and train involved when they arrived at the scene used the emergency responders at Benton Avenue, a road master was present who had communication on his portable telephone with the dispatching center in Missoula and who then was able to, with the fire chief standing right beside his vehicle, communicate with the fire chief, directly with our dispatching office even though telephone communications were impossible. We were able to get the information to him with our portable telephone system. If an agent had been involved in Helena, his radio was out, went as soon as the electricity went out, his company telephone system went out, it all operates through an electrical switchboard, all we had left was people out there taking care of the situation without communications. We met with fire departments all across our railroad, we have been partners in the formation of some of their emergency disaster plans including the one in Helena before the incident.

I certainly don't consider a train running away to be a success story, but a lot of people didn't have things right after the incident. An agent would have been of no value in that situation, in fact, if he were utilized, the passage of information would have an adverse affect on the safety of the general public in that situation by being one more step to slow the process. In conclusion, we would like to use our resources to improve branch lines and provide better rates for the shipping public. Many of these individuals are hard working motivated employees, technology has made their position unnecessary for the safety of the shipping public. We need to channel our efforts in something more productive so that we can better utilize our resources.

Mr. Wheeler opposes this bill. Rep. Whalen states that this is a simple and housecleaning bill. We have reservations about it being a housecleaning or simple bill. In response to Mr. Mular's testimony regarding the duties of an agent from the BN manual which was published upon the merger of the Northern Line Railroads in 1970. That manual has long since been updated and the statement read by him is several years obsolete.

Questions From Committee Members: Rep. Blotkamp asked Rep. Whalen what he meant when he said the PSC does not consider safety a factor for having agency facilities. Rep. Whalen said at the present time they do not, but if this bill is passed they will have to.

Rep. Wallin said he did not see any of the public as proponents of the bill, Rep. Whalen decided not to bring a line of people in because the bill is pretty clear as to what it does.

Rep. Blotkamp asked Mr. Murray if agencies would be required to operate where they do not currently operate? Mr. Murray said to a great extent, yes.

Rep. Bachini asked Mr. Mular if the stations that are closed now have to be reopened? Mr. Mular said they would not.

Closing by Sponsor: Rep. Whalen said when the hearing was held in Miles City, it is my understanding that quite a bit of testimony was attempted to be offered with regard to safety, you are talking about a community with 8-10,000 people, not having an agency any more. The PSC would not hear that testimony. They have these people, and they claim they are up there sitting the trains go by. I read in the Billings Gazette approximately 6 months ago when the Amtrac derailed between Wolf Point and Malta, the first man on the scene to help those people injured in that derailment was a station agent, from Malta. The Gazette had a full page story on the derailment and went on and on about not only what the people in the community did to help the injured in the derailment, but also the commendable job the station agent in that community did. Of course they are going to be sitting there watching the train go by.

DISPOSITION OF HOUSE BILL 645

Motion: Rep. Bachini moved DO PASS as amended.

Discussion: Rep. Glaser said if this bill passes the poor people are not going to be able to get any money. If the cost of money goes up, no one will loan poor people money. It deals strictly with prime rate. A good customer gets 2 percent above prime, I think prime right now is 9.6 percent, so that is 11.6 percent. On the 20th of the month somebody runs out of food to feed their family for some reason or other. They take the microwave down to the pawnshop and get money to feed their family for 8-10 days. The numbers in here are devastating to poor people. I represent more poor people than anybody else on this committee. Rep. Pavlovich asked Rep. Glaser if he had an amendment he would like to propose. Rep. Glaser said he would like to sit down with Rep. Addy and come up with something that is at least keyed to the prime rate that absolutely limits them from getting any money when times are tough and you have a heavy inflation going on. I think we need to do something with it.

Rep. Bachini asked Rep. Glaser if we could do whatever the committee wishes? Either pass or kill the bill and in the meantime if we pass the bill you go ahead and work with Rep. Addy and take care of your concerns. Time is of the essence now.

Rep. Simon said he thought Rep. Glaser has brought up a very excellent point. There is a good reason we need to move this bill forward as we are facing a transmittal deadline. I think Rep. Addy indicated an interest in trying to do something. I would like to make a suggestion to the committee, to strike sub section 1 from the bill. There are two phases to this bill. Sub section 2 deals with pawnbrokers taking in stolen goods and running them to the police and so on. The other deals with interest rates. If we strike (1) from the bill that would allow Reps. Glaser and Addy develop a substitute (1) and offer it as an amendment on the floor to put it back in. We can move this bill forward with (2) and allow them the opportunity to come up with that and not hold this bill up in committee, this is my suggestion. How do other members of the committee feel about this?

Amendments, Discussion, and Votes: Rep. Simon moved to strike sub section 1 from the bill. The amendment DO PASS 9-7 vote. Rep. Pavlovich said the title will be amended also.

Recommendation and Vote: HB 645 DO PASS as amended.

DISPOSITION OF HOUSE BILL 635

Motion: Rep. Bachini moved DO NOT PASS.

Discussion: Rep. Wallin said they were talking about the right to take the exam.

Rep. Glaser said there is a major difference between maintenance and master electricians. Being an electrician, you are dealing with a very dangerous commodity. When you are dealing with 10-12,000 volts you have to have experience necessary to handle that much electricity. You are the only guy responsible for that project, not the journeyman, not the apprentice. The master electrician is responsible for the safety of the people. Master electricians are not just ordinary people. You will find them to be extra ordinary people and they do their job, with very few exceptions, extremely well. So I am going to do what I can to tell Rep. Hoffman that.

Rep. Johnson said he recognizes that there is a difference between maintenance and the engineering phase. All they are asking for is experience in maintenance being used. They must go and take the test. The items listed here in the bill are the same thing that the engineers take. According

to the bill the maintenance electrician must have the same background and information as the engineer has. It doesn't state anything in the test items about maintenance. I think what they want to do is substitute that maintenance experience with education.

Rep. Thomas asked Rep. Glaser what stages of electrical licenses are there? Rep. Glaser said there are basically an apprenticeship, journeyman, and after so many years of experience, you can take a master test. To run a shop, you have to have or be a master, a journeyman runs the jobs, under you, you can have a combination of journeyman/apprentice or people that are called groundsmen.

Rep. DeMars moved a substitute motion to table the bill.

Amendments, Discussion, and Votes: None

Recommendation and Vote: HB 635 was TABLED 9-7 vote.

DISPOSITION OF HOUSE BILL 626

Motion: Rep. Bachini moved DO PASS.

Discussion: Rep. Wallin said he had a question during the hearing and Rep. Bachini said he would answer it during executive action. Rep. Bachini said when there were hearings up on the high line and I took the time to talk to the elevator operators up along the high line as to their feeling whether that station should remain open or close. They had been instructed by their corporate company to not attend any of the hearings and to not even vote. One gentleman showed me the letter directing him not to attend and testify against the closing. If he did he would lose his job. Even though that agent or clerk provided a service to their company. That is why you don't see people coming in here and testifying because they have been instructed not to.

The closer is based more on the shipper's testimony than John Q public.

Rep. Thomas asked Rep. Bachini about the term "comfort" on page 2, line 3, that seems to be too broad of a term? Rep. Bachini said it might be, I have no problem with it. Rep. Thomas moved to strike the word comfort on page 2, line 3. Rep. Hansen asked if they could now take out the rest rooms? Rep. McCormick asked if the streamliner would now take out the sleepers? I think that is comfort if you lie down.

Rep. Thomas said this is not a contract, it simply defines what public convenience and necessity is. Rep. McCormick said he thought that was public convenience to get a sleeper and lie down to sleep instead of having to sit up. The amendment to take out the word comfort failed.

Amendments, Discussion, and Votes: None

Recommendation and Vote: HB 626 received a tie vote 8-8.

DISPOSITION OF HOUSE BILL 613

Motion: Rep. Hansen moved DO NOT PASS.

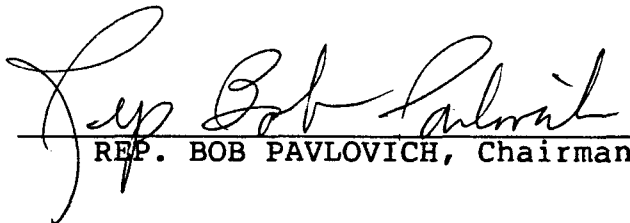
Discussion: Rep. Blotkamp said it's a good bill to help do just what Rep. Menahan wants, to promote the centennial celebration.

Amendments, Discussion, and Votes: None

Recommendation and Vote: HB 613 DO NOT PASS 10-6 vote.

ADJOURNMENT

Adjournment At: 11:35 a.m.



REP. BOB PAVLOVICH, Chairman

BP/sp

3903.min

DAILY ROLL CALL

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date 2 15 89

NAME	PRESENT	ABSENT	EXCUSED
PAVLOVICH, BOB	✓		
DeMARS, GENE	✓		
BACHINI, BOB	✓		
BLOTKAMP, ROB	✓		
HANSEN, STELLA JEAN	✓		
JOHNSON, JOHN	✓		
KILPATRICK, TOM	✓		W
McCORMICK, LLOYD "MAC"	✓		
STEPPLER, DON	✓		
GLASER, BILL	✓		
KELLER, VERNON	✓		
NELSON, THOMAS	✓		W
SIMON, BRUCE	✓		
SMITH, CLYDE	✓		
THOMAS, FRED	✓		
WALLIN, NORM	✓		
PAUL VERDON	✓		

ROLL CALL VOTE

BUSINESS AND ECONOMIC DEVELOPMENT

COMMITTEE

DATE 2/15/87 BILL NO. 626 NUMBER 1

NAME	AYE	NAY
Bob Pavlovich	X	
Bob Bachini	X	
Rob Blotkamp		X
Gene DeMars	X	
Bill Glaser		X
Stella Hansen	X	
John Johnson	X	
Vernon Keller		X
Tom Kilpatrick	X	
Lloyd McCormick	X	
Thomas Nelson		X
Bruce Simon		X
Clyde Smith		X
Don Steppler	X	
Fred Thomas		X
Norm Wallin		X

TALLY

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Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: Bachini moved to pass

ROLL CALL VOTE

BUSINESS AND ECONOMIC DEVELOPMENT

COMMITTEE

DATE 2/15/89 BILL NO. 613 NUMBER

NAME	AYE	NAY
Bob Pavlovich		X
Bob Bachini		X
Rob Blotkamp		X
Gene DeMars		X
Bill Glaser	X	
Stella Hansen	X	
John Johnson	X	
Vernon Keller	X	
Tom Kilpatrick	X	
Lloyd McCormick		X
Thomas Nelson	X	
Bruce Simon	X	
Clyde Smith		X
Don Steppler	X	
Fred Thomas	X	
Norm Wallin	X	

TALLY

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Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: Hansen moved to not pass

ROLL CALL VOTE

BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE
 DATE 2/15/89 BILL NO. 576 NUMBER

NAME	AYE	NAY
Bob Pavlovich		
Bob Bachini		
Rob Blotkamp		
Gene DeMars		
Bill Glaser		
Stella Hansen		
John Johnson		
Vernon Keller		
Tom Kilpatrick		
Lloyd McCormick		
Thomas Nelson		
Bruce Simon		
Clyde Smith		
Don Steppler		
Fred Thomas		X
Norm Wallin		X

TALLY

14

2

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: do pass as amended

ROLL CALL VOTE

BUSINESS AND ECONOMIC DEVELOPMENT

COMMITTEE

DATE 2/15/89 BILL NO. 645 NUMBER 2

NAME	AYE	NAY
Bob Pavlovich		
Bob Bachini		
Rob Blotkamp		
Gene DeMars		
Bill Glaser		
Stella Hansen		
John Johnson		
Vernon Keller		
Tom Kilpatrick		
Lloyd McCormick		
Thomas Nelson		
Bruce Simon		
Clyde Smith		
Don Steppler		
Fred Thomas		
Norm Wallin		

TALLY

16

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: do pass as amended

ROLL CALL VOTE

BUSINESS AND ECONOMIC DEVELOPMENT

COMMITTEE

DATE 2/15/89 BILL NO. 645 NUMBER 1

NAME	AYE	NAY
Bob Pavlovich	X	
Bob Bachini		X
Rob Blotkamp		X
Gene DeMars		X
Bill Glaser	X	
Stella Hansen		X
John Johnson		X
Vernon Keller	X	
Tom Kilpatrick		X
Lloyd McCormick		X
Thomas Nelson	X	
Bruce Simon	X	
Clyde Smith	X	
Don Stepler	X	
Fred Thomas	X	
Norm Wallin	X	

TALLY

9 7

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION:

do pass remove section 1

2/15/89
2:25 pm
R

STANDING COMMITTEE REPORT

February 15, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that HOUSE BILL 613 (first reading copy -- white) do NOT pass.

Signed: _____
Robert Pavlovich, Chairman

STANDING COMMITTEE REPORT

February 16, 1989

Page 1 of 2

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 576 (first reading copy -- white) do pass as amended.

Signed: Robert Pavlovich, Chairman

And, that such amendments read:

1. Title, line 6.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

2. Page 1, line 22.

Strike: "if it meets"

Insert: "without meeting"

3. Page 1, lines 23 and 24.

Following: "23-5-609" on line 23

Strike: remainder of line 23 and through "if" on line 24

Insert: ":

(a) it meets the requirements of 23-5-607 and 23-5-608;

(b) it has mechanical meters described in 23-5-609(4)(k) and electronic meters described in 23-5-609(4)(l); and

(c) "

4. Page 2, line 2.

Strike: "owned or operated in the state"

Insert: "licensed by the department"

Strike: "June 30, 1987"

Insert: "January 1, 1989"

5. Page 2, lines 4 through 7.

Following: "~~1989~~."

Strike: remainder of line 4 and lines 5 through 7 in their entirety

6. Page 2, line 12.

Following: "date"

Insert: "-- termination"

February 16, 1989
Page 2 of 2

7. Page 2, line 13.

Following: "1989"

Insert: ", and terminates December 31, 1990"

STANDING COMMITTEE REPORT

February 16, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 645 (first reading copy -- white) do pass as amended.

Signed: Robert Pavlovich, Chairman

And, that such amendments read:

1. Title, line 4.

Following: "ACT"

Strike: remainder of line 4 and line 5 in its entirety

2. Title, line 10.

Strike: "SECTIONS 31-1-401 AND"

Insert: "SECTION"

3. Page 1, line 14, through page 2, line 16.

Strike: section 1 in its entirety

Re-number: subsequent sections

4. Page 3, lines 10 and 12.

Strike: "3"

Insert: "2"

Amendments to House Bill No. 576
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 15, 1989

1. Title, line 6.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

2. Page 1, line 22.

Strike: "if it meets"

Insert: "without meeting"

3. Page 1, lines 23 and 24.

Following: "23-5-609" on line 23

Strike: remainder of line 23 and through "if" on line 24

Insert: ":

(a) it meets the requirements of 23-5-607 and 23-5-608;

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electronic meters described in 23-5-609(4)(l); and

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Strike: "owned or operated in the state"

Insert: "licensed by the department"

Strike: "June 30, 1987"

Insert: "January 1, 1989"

5. Page 2, lines 4 through 7.

Following: "~~1989~~."

Strike: remainder of line 4 and lines 5 through 7 in their
entirety

6. Page 2, line 12.

Following: "date"

Insert: "-- termination"

7. Page 2, line 13.

Following: "1989"

Insert: ", and terminates December 31, 1990"

Amendments to House Bill No. 645
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 15, 1989

1. Title, line 4.

Following: "ACT"

Strike: remainder of line 4 and line 5 in its entirety

2. Title, line 10.

Strike: "SECTIONS 31-1-401 AND"

Insert: "SECTION"

3. Page 1, line 14, through page 2, line 16.

Strike: section 1 in its entirety

Renumber: subsequent sections

4. Page 3, lines 10 and 12.

Strike: "3"

Insert: "2"

INTERNATIONAL

Local No. 532

BROTHERHOOD OF
ELECTRICAL

WORKERS

February 14, 1989

HB 635
2/15/89
5200 Midland Road
P.O. Box 31491
Billings, MT 59107
Phone 248-9119

Honorable Bill Glaser
Montana House of Representative
State Capitol
Helena, Montana 59620

Dear Honorable Glaser:

This letter is written to request your opposition to HB635! The bill would require the Montana State Electrical Board to accept maintenance experience towards the Master Electrician's License.

37-68-101 MCA outlines the purpose of the State Electrical Board as follows:

- (1) Protect the health & safety of the people of this state from the danger of electrically caused shocks, fires, and explosions;
- (2) Protect property from the hazard of electrically caused fires and explosions;
- (3) Establish a procedure for determining where and by whom electrical installations are made;
- (4) Assure the public that persons making electrical installations are qualified, and;
- (5) Insure that the electrical installations and electrical products made and sold in this state meet minimum safety standards.

8.18.402 ARM describes, in part, maintenance as "ordinary and customary implant or onsite installations, modifications, additions, or repairs which shall be limited to: relamping fixtures, replacing ballasts, trouble shooting, motor controls, replacing motors, breakers, magnetic starters, in a kind for kind manner....."

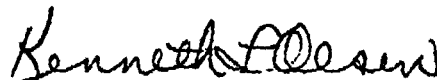
Honorable Bill Glaser
February 14, 1989
Page 2

37-68-304, MCA, reads in part, "An applicant for a master electrician's license shall furnish written evidence that he is a graduate electrical engineer of an accredited college or university and has 1 year of practical electrical experience or that he is a graduate of an electrical trade school and has at least 4 years of practical experience in electrical work or that he has had at least five years practical experience in planning, laying out, or supervising the installation and repair of wiring, apparatus, or equipment for electrical light, heat, and power."

The Master Electrician is responsible for installation of all electrical equipment and wiring. As you can see from the above quotes, his abilities far exceed that of a maintenance electrician.

Please consider the GREAT difference between the abilities of these two classifications and vote "NO" on HB 635.

Very truly yours,



Kenneth L Olsen
Business Manager #532

KLO/js

cc: File

MONTANA CHAPTER

NATIONAL ELECTRICAL CONTRACTORS ASSOCIATION

P. O. BOX 1249

HELENA, MONTANA 59601



406/442-8330

February 14, 1989

Bob Pavlovich, Chairman
Business and Economic Development Committee
Capitol Station
Helena, MT 59602

Dear Representative Pavlovich:

I just became aware that your committee is hearing House Bill 635 tomorrow morning at 8:30.

I have prior commitments and cannot rearrange my schedule to be at this hearing on such short notice. Non the less, our Association wants to be on record that we absolutely oppose House Bill 635.

A Master Electrician has responsibility for any type of electrical installation, whether it be some of the mundane maintenance installations called for in this bill which anyone could do with little experience and instruction, to some of the most sophisticated life safety installations in hospitals and nursing homes. Having a Master Electrician with the experience called for in this bill would be similar to saying that a person who can change the oil in their car is an auto mechanic, or a person who can boil water is qualified to be a chef.

If this bill were to pass, the State of Montana could have individuals with minimal expertise responsible for any electrical installation in this state. THAT DOES NOT MAKE SENSE!

I feel like I am coming on strong, but I am absolutely appalled that a bill of this nature is even being considered by the Legislature.

In closing, House Bill 635 needs to be defeated so Montanans can be assured that electrical installations are being supervised by qualified individuals so that our safety will not be jeopardized.

Sincerely,

A handwritten signature in cursive script, reading "Thomas L. Herzig", is written over the typed name.

Thomas L. Herzig
Secretary/Manager

TLH/mw

#1
NB 626
2/15/89

BEFORE THE MONTANA HOUSE
BUSINESS AND ECONOMIC DEVELOPMENT
COMMITTEE

IN SUPPORT OF HB 626 BY REPR. WHALEN

15-FEBRUARY-1989

TESTIMONY OF JAMES T. MULAR, STATE LEGISLATIVE
DIRECTOR, TRANSPORTATION COMMUNICATIONS UNION
(TCU) formerly the Brotherhood of Railway &
Airline Clerks) 440 Roosevelt Drive, Butte, MT.

Chairman Pavlovich, members of the Committee TCU supports the amendment to Section 69-14-202MCA which defines the Common Law Doctrine of Public Convenience & Necessity (PCN) The 1987 Legislature amended this section relating to maintenance and staffing of railroad facilities. Formerly Montana required RR's doing business in Montana to maintain and staff station facilities in communities of 1,000 inhabitants and at least one in each county. Representative Bradley (Dem. Bolemn) amend this law by striking the population criterion defining public convenience and necessity, and merely inserted the present PCN without definition.

If you will look at the bottom of page one and extending to page two HB 626 defines public convenience and necessity to mean:

"the maintenance and staffing of facilities with equipment and instrumentalities necessary to promote the safety, health, comfort, and convenience of the railroad's patrons, its employees, and the public, which must in all respects be adequate, efficient, just, and reasonable.".....

This amendment is the same as Section 61-302 of the Idaho Code. I am attaching a copy of that section to this statement, with court citations upholding this law.

HB 626 reflects that a railroad must provide equipment and instrumentalities, and I would like to read into the record what a railroad agency is required to perform. This statement appears in Burlington Northern's PREFACE to their Agents:

" The agency is a VITAL part of Burlington Northern. In a sense, the Agency IS Burlington Northern to many of our customers who may have LIMITED contact with any other company representatives. The Agency role then is DOUBLY important. Not only must it protect the revenues and other vital business interests of Burlington Northern, it must also provide the customer with access to ALL THE SERVICE that the Company offers. The agency must be ready and able to establish contact with all departments and divisions of the various departments, including Transportation, Marketing, Engineering, Industrial Development and Property Management, the various Accounting divisions and sections, and others who may have information or services that a customer requires. Operating an agency in the manner necessary to protect company revenues and other vital business interests is a complex and exacting task requiring familiarity with the functions, instructions and responsible officers of all other departments of the company....

This preface reflects the vital need for agency services in remote areas of Montana. It also complies with the intent of HB 626 which alludes to EQUIPMENT and INSTRUMENTALITIES. A Staffed railroad station has the following equipment to transact business:

1. Radio/Train Crew and Dispatcher Communications, also Track Crew Communications.
2. Local Telephone Service, FAX copiers, limited computer hardware.
3. Safety devices, such as warning flares, dangerous commodity placards, car seals, track warning torpedoes, flagging devices
4. Typewriters, and telemetric devices necessary in executing company reports.

The following Paper Instrumentalities are available to Railroad Customers:

Bills of Lading, Over Short & Damaged Freight Reports, OSD Car Yard Check Reports, Customer Car Order Forms, Demurrage, Records such as average agreements and straight plan demurrage forms, FRA Hazardous Commodity Tariffs explains what to do in a local crisis with hazardous commodities. Seal Record Book, Record Book of animals killed along rail right of way.

HB 626 assures that this EQUIPMENT and INSTRUMENTALITIES remain with the station until the Montana Public Service Commission find otherwise through the Public Hearing Process. It does not require that Station already closed by the Commission will be required to reopen. The amenddment merely defines PCN.

Montana railroads have been gradually removing the above equipment and instrumentalities, reducing local contact, and then asking the PSC to close the agency for lack of work disregarding public safety.

For example, my office has attended every public hearing conducted by the PSC. Whenever we introduced testimony or documents relating to public safety, very little evidentiary weight was given to safety. The Commission merely applied the common law PCN standard which requires that shippers only have standing to oppose station closures. Many local governments opposed station closures since 1987 premised on Local Safety Concerns etc.

For example Montana Rail Link closed its dualized agency of St. Regis and Superior. Testimony reflected that the agent based in Superior had High Frequency Radio capabilities to communicate

with train crews. The Superior St. Regis Line has radio blackouts with Locomotive based radios impairing communications with the train dispatcher. Often times the Superior agent would contact train crews giving them dispatch instructions. Emergency fact situations were entered in the hearing record without any weight to the retention of agency service.

The same scenario appeared in the BN Miles City Closing.

We would like to report to this committee that since the passage of the 1987 legislation eliminating PCN population criterion the following stations have been closed:

MONTANA RAIL LINK was given authority to close:

Darby, Hamilton, Stevensville, Superior, St. Regis,
Thompson Falls, Plains, Paradise, Ronan, Polson, Drummond,
Phillipsburg, Toston, Townsend, Big Timber, Columbus, Alder,
Whitehall, Sheridan, Twin Bridges.

MONTANA RAIL LINK Stations that are still open:

Missoula, Helena, East Helena, Toston, Three Forks,
Harrison, Belgrade, Bozeman, Billings, Laurel.

Total Open MRL Montana Stations ten (10)

BN STATIONS CLOSED BETWEEN APRIL 1987 thru November 1988

Brady, Dutton, Conrad, Valies, Choteau, Power, Big Sandy,
Rudyard, Hingham, Wibaux, Circle, Farivdiew, Miles City.

At total of 13.

BN CLOSURE APPLICATIONS HEARD and awaiting PSC decision:

Chester, Harlem, Chinook, Hysham, Terry, Ophiem, Glentanna,
Richland, Peerless, Scobey, Four Buttes, Plentywood,

Medicine Lake, Reserve, Antelope, Froid, Homestead, Culbertson. Total of 17 Fort Benton was denied.

BN STATIONS THAT ARE STILL OPEN:

Garrison, Huntley, Hardin, Forsyth, Glendive, Sidney, Wolf Point, Glasgow, Malta, Ft. Benton, Havre, Sweet Grass, Cut Bank, Shelby, Browning, Columbia Falls, Eureka, Whitefish, Kalispell, Libby, Great Falls, Stanford, Lewistown. Total Twenty Three (23).

UNION PACIFIC STATIONS 125 Mile operation

Dillon, Silver Bow, Montana

MONTANA WESTERN, 55 mile operation

Butte, and Silver Bow, Montana...

CONCLUSIONS

Montana railroads have closed 32 stations from April 1987 To August 1988 for an average of two stations per month. There are 17 stations awaiting PSC orders, and only one station closing was denied - Ft. Benton..... This is an alarming withdrawal which ignores the public and denies remote areas of Montana to rail agency services.

HB 626 addresses the concerns of Montana Communities relating to Rail Safety and public need.

Thank you for allowing me to appear before this committee..



JAMES T. MULAR, SLD TCU BUTTE MT

H3626

R.R.

61-302. Maintenance of adequate service. — Every public utility shall furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the safety, health, comfort and convenience of its patrons, employees and the public, and as shall be in all respects adequate, efficient, just and reasonable. [1913, ch. 61, § 12b, p. 247; reen. C.L. 106:45; C.S., § 2412; I.C.A., § 59-302.]

Cross ref. Equal transportation rights guaranteed, Const., Art. 11, § 6.

Cited in: Application of Pacific Tel. & Tel. Co. (1951), 71 Idaho 476, 233 P.2d 1024.

ANALYSIS

Abandonment of service.

Cost of service.

Discrimination.

Efficiency.

Equal facilities.

Negligence.

Rate making.

Right to require service.

Sufficiency of service.

Telephone service.

Warning of danger.

Water service.

Abandonment of Service.

On an application by a railroad to abandon a portion of its service and substitute service of another sort in lieu thereof, the burden of proof rests on the railroad to show that the proposed substitute service would be adequate, efficient, just and reasonable. In re Application of Union Pac. R. Co. to Abandon Certain Train Service (1943), 64 Idaho 597, 134 P.2d 1073.

Where the total revenue from passenger trains over a certain branch line for eighteen months was \$11,473.40 as against an expense of \$23,063.46, the use of the passenger train service by the public being negligible, and there were adequate and efficient means of transportation over another railroad and by bus service, the public utilities commission erred in denying the railroad's application to discontinue passenger train service and to substitute, in lieu thereof, mixed trains consisting of a passenger car and a baggage car on existing freight trains. In re Application of Union Pac. R. Co. to Abandon Certain Train Service (1943), 64 Idaho 597, 134 P.2d 1073.

No fixed rule can be applied in determining whether or not a railroad is entitled to discontinue a portion of its service and substitute in lieu thereof a different class of service, and each case must be considered in the light of all of its facts. In re Application of Union Pac. R. Co. to Abandon Certain Train Service (1943), 64 Idaho 597, 134 P.2d 1073.

The action of the public utilities commission in denying a railroad's right to discontinue passenger trains on a certain branch

line and to substitute in lieu thereof mixed trains consisting of a passenger car and a baggage car on existing freight trains was neither arbitrary nor capricious, although the service was operated at a loss, where a discontinuance would leave the public practically without railroad passenger service and with only a minimum of bus service at a time when the operation of motor vehicles was seriously restricted because of war, and the operation of the railroad's entire system showed a profit. In re Application of Union Pacific R. Co. to Abandon Certain Train Service (1943), 64 Idaho 597, 134 P.2d 1073.

Cost of Service.

In determining whether patronage justifies expense of operation of passenger trains on a railroad's branch line, it is proper to take into consideration the expense of furnishing passenger service, but that is not the most important question, the controlling question being the necessity and reasonableness of the service to the public. In re Application of Union Pac. R. Co. to Abandon Certain Train Service (1943), 64 Idaho 597, 134 P.2d 1073.

Discrimination.

Railroad company, engaged in the business of common carrier, is bound under the common law to receive and carry, within the class of goods it is engaged in carrying, such goods as are tendered for that purpose; and, in absence of a special contract, to carry them with the full common-law liability of a common carrier. McIntosh v. Oregon R. & Navigation Co. (1909), 17 Idaho 100, 105 P. 66.

Efficiency.

Electric utility was found by commission to be rendering reasonably good service, notwithstanding the unsatisfactory character of its heating service, on the ground that electricity from an economic standpoint is too expensive to be used for heating purposes. (On rehearing) In re Idaho Light & C. Co., 2 P.U.C.I. 53, P.U.R. 1915A, 2; In re Idaho Light & C. Co., 2 P.U.C.I. 38.

Equal Facilities.

Contract entered into by railroad company granting to steamboat company the exclusive right to receive and discharge freight and passengers at dock or wharf which was a part of and connected with its depot and station grounds, and which afforded the only means

IDAHO Code

and facility for approaching the station grounds by means of the water highway, and excluding all competitors of such steamboat company from like or similar privileges at any time or at all, was undue and unreasonable discrimination in favor of one company and against its competitors, which was in violation of Const., Art. 11, § 6. *Coeur d'Alene & St. Joe Transp. Co. v. Ferrell* (1912), 22 Idaho 752, 128 P. 565, 43 L.R.A. (n.s.) 965.

Negligence.

Where the conclusion to be drawn from defendant water company's evidence was that the cause of rupture in its water mains could have been a defect in manufacture of the main or damage to the main in installation which reasonable inspection at that time would have revealed and that such condition permitted corrosion to weaken the main permitting the rupture to give rise to a reasonable inference of negligence under the doctrine of *res ipsa loquitur*, the conclusion was in harmony with the duty imposed by statute upon a public utility. *C. C. Anderson Stores Co. v. Boise Water Corp.* (1962), 84 Idaho 355, 372 P.2d 752.

Rate Making.

The public utilities commission has authority to fix rates which are just and equitable, both to the people and to the corporation. *Idaho Power & Light Co. v. Blomquist* (1914), 26 Idaho 222, 141 P. 1083.

Right to Require Service.

A new district or community may be entitled to receive service from a public utility without guaranteeing an amount of revenue at the usual rates to satisfy the utility. *Walters v. Utah Power & Co.*, P.U.C.I. Case F194, Order 601, P.U.R. 1920C, 212.

Public utility will not be required to render service unless such rendering will afford a revenue which will pay the operating expenses and taxes, provide proper depreciation reserve, and afford a fair return on the investment judiciously made in property used, useful, necessary and required in the service of the public under efficient and economical management. In *re Idaho Power Co.*, P.U.C.I. Case F449, Order 838, P.U.R. 1922C, 705.

It is a common carrier's duty to furnish such service as will produce the greatest comfort and convenience to the greatest number of the traveling public. In *re Oregon-Washington R. & Co.*, P.U.C.I. Case F462, Order 841, P.U.R. 1922D, 155.

A public utility may be required to continue service only so long as the public support warrants such continuance. In *re Colonial Trust Co.*, P.U.C.I. Case F660, Order 1124, P.U.R. 1928D, 628.

The refusal of a public utility company to furnish service in any part of a territory in

which an independent company, not a public utility, has entered, cannot be justified, provided public convenience and necessity requires service therein. In *re Darnielle*, P.U.C.I. Case F663, Order 1138, P.U.R. 1928E, 211.

A railroad was entitled to permission to substitute a caretaker for agency service for community on a branch line having 800 voters, where such substitution would not be a material detriment to the community and would lessen the expense and release a telegraph operator for more necessary service. In *re Application of Union Pac. R. Co. for Leave to Discontinue Agency at Montour* (1943), 64 Idaho 529, 134 P.2d 599.

If the service rendered by a railroad is adequate, efficient, just and reasonable as required by statute, it is neither just nor reasonable to impose an unreasonable and unjust economic loss on the railroad, and indirectly, on the public by requiring unnecessary and useless expenditures. In *re Application of Union Pac. R. Co. to Abandon Certain Train Service* (1943), 64 Idaho 597, 134 P.2d 1073.

Sufficiency of Service.

Service offered by public utility must be reasonably adequate and efficient and must be furnished at rates which the consumers can reasonably afford to pay. Council v. Adams County Light & Co., P.U.C.I. Case F323, Order 661, P.U.R. 1920E, 381.

Adequacy of service was not shown by showing that under unusually advantageous conditions a sufficient supply of water could be had. *Eddy v. Lewiston Valley Water Co.*, P.U.C.I. Case F409, Order 777, P.U.R. 1921D, 479.

This section does not require maintenance of plainly excessive or obsolete equipment. In *re Boise Artesian Water Co.*, P.U.C.I. Case F504, Order 909, P.U.R. 1931A, 566.

X Extent of demand for service and use thereof by the public is to be considered in determining the reasonableness of and necessity for such service. In *re Oregon Short Line R. Co.*, P.U.C.I. Case F603, Order 1029, P.U.R. 1926E, 364.

Conditions may be such as not to require the keeping of an agency at a railroad station, and at the same time require a caretaker. In *re Northern Pac. R. Co.*, P.U.C.I. Case F643, Order 1085, P.U.R. 1927E, 653.

X It is the duty of the public utilities commission, when an application to discontinue an agency and substitute a caretaker to furnish all substantial service previously furnished, to consider whether the substituted service would be "adequate, efficient, just and reasonable service," in the light of the facts. In *re Application of Union Pac. R. Co. for Leave to*

3
HB 635
2/15/89

WITNESS STATEMENT

NAME JIM LEWIS BILL NO. HB 635
ADDRESS 714 SECOND STREET HELENA MT
WHOM DO YOU REPRESENT? STATE ELECTRICAL BOARD
SUPPORT _____ OPPOSE X AMEND X

COMMENTS:

THIS BILL WOULD SERIOUSLY REVERSE
THE PROGRESS OF CONSUMER PROTECTION
IN THE STATE.

A MASTER ELECTRICIAN IS LICENSED
TO PLAN, LAYOUT, DESIGN AND SUPERVISE
ANY KIND OF FACILITY [HOSPITAL, HIGH
RISE, MILL, PLANT, ANYTHING].

MAINTENANCE WORK IS EXEMPT FROM
PERMITTING AND INSPECTION AND
THEREFORE FROM CODE ENFORCEMENT.
IT ALSO DOES NOT USUALLY INVOLVE
DESIGNING, PLANNING AND SUPERVISING.

IT WOULD BE BETTER TO CREATE
A NEW CLASS OF LICENSE FOR
MAINTENANCE AND ALSO LOW-VOLTAGE
ELECTRICIANS.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Business

COMMITTEE

BILL NO. 613 626
635 645

DATE

2/15/89SPONSOR Mission Wholesalers
Hoffman AddyPlease put the
bill number. Then

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
JIM LEWIS SB635	HELENA		X
Charles Rossiter	Sheridan	X	
Shelly Laine	City of Helena		613
Terry Murphy	Farmers Union - Gt. Falls	X(HBL26)	
Mignon Waterman	MT Assoc. of Churches		613 X
Tim Baker	PSC (48666)		
Wm Egan	Mont Elect. Conf.		635
Landy Reger	GIA	613	
James T. Mular	TCU Butte MT	626	
Richard VanAken	TCU Missoula MT #43	626	
(Red) Menckhan	AFT ANACONDA	626	
C E KEELER	GREAT FALLS		626
Wayne Budd	Mont PSC		
Raymond West	Helena UTM. St. Pin.	✓	
Lec Huseau	MLCT	626	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.