

HOUSE BILL NO. 453

INTRODUCED BY STOLTZ, JOHNSON, BRADLEY, SHELDON, HUENNEKEN,  
KIMBLE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE  
SUSPENSION OF ACTION ON CERTAIN APPLICATIONS FOR  
CERTIFICATES OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED  
FOR SIX (6) YEARS DURING WHICH TIME A COMPREHENSIVE MONTANA  
ENERGY POLICY AND PLAN SHALL BE FORMULATED; AND PROVIDING  
FOR AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Statement of legislative findings and  
policy. The legislature, noting the apparent federal  
initiative for energy conversion facilities and further  
noting their complex economic, social and environmental  
impacts as well as the lack of clearly defined state energy  
conversion objectives, policies, and plans, finds that  
energy conversion facility siting must necessarily cease  
until such state objectives, policies, and plans are  
defined, developed, and subjected to citizen participation  
and review. The legislature further finds that action on  
individual utility siting applications without a  
comprehensive program could lead to economic, social, and  
environmental disruption in their cumulative impact. The

legislature pursuant to its mandate and authority under  
Article IX of the Montana constitution declares that it is  
the policy of this state that until a comprehensive state  
energy conversion policy and plan is developed and accepted,  
the siting of energy conversion facilities shall be  
suspended.

Section 2. Definitions. Unless the context clearly  
requires otherwise, in this act:

(1) "Board" means the board of natural resources and  
conservation.

(2) "Application" means an application for a  
certificate of environmental compatibility and public need  
under the Montana Utility Siting Act of 1973 for any utility  
facility:

(a) designated for, or capable of, generating at fifty  
(50) megawatts of electricity or more or any addition  
thereto (except pollution control facilities approved by the  
department of health and environmental sciences added to an  
existing plant) having an estimated cost in excess of two  
hundred fifty thousand dollars (\$250,000), or

(b) designed for, or capable of, producing one hundred  
million (100,000,000) cubic feet of gas per day or more, or  
any addition thereto, having an estimated cost in excess of  
two hundred fifty thousand dollars (\$250,000), or

(c) designed for, or capable of, producing fifty

1 thousand (50,000) barrels of liquid hydro-carbon products  
 2 per day or more or any addition thereto having an estimated  
 3 cost in excess of two hundred fifty thousand dollars  
 4 (\$250,000), or

5 (d) designed for or capable of enriching uranium  
 6 minerals.

7 Section 3. Suspension of action. (1) The board may  
 8 not grant or otherwise take any action on an application  
 9 until:

10 (a) six (6) years have elapsed from the effective date  
 11 of this act,

12 (b) the governor of the state of Montana has prepared  
 13 and submitted directly to the legislature a long-term,  
 14 comprehensive state energy conversion policy and plan  
 15 including but not limited to alternative long-term growth  
 16 goals, a state-wide siting inventory, and a proposed siting  
 17 policy for the coordinated siting of energy conversion  
 18 facilities to meet Montana's energy needs,

19 (c) the legislature of the state of Montana has had an  
 20 opportunity to respond to the policy and plan with  
 21 appropriate legislation.

22 (2) Provided that this act does not apply to any  
 23 application accepted by the department prior to January 1,  
 24 1975.

25 Section 4. The board may suspend action on

1 applications not meeting the definition of application in  
 2 section 2 of this act if it determines, after a public  
 3 hearing conducted under the contested case procedures of the  
 4 Montana Administrative Procedure Act, that the cumulative  
 5 impact of those applications, if granted, would be contrary  
 6 to the policies and purposes of this act.

7 Section 5. The board may take action on applications  
 8 meeting the definition of application in section 2 of this  
 9 act if it determines, after a public hearing conducted under  
 10 the contested case procedures of the Montana Administrative  
 11 Procedure Act, that there is a need in the state of Montana  
 12 for the energy produced by the facility. Provided, however,  
 13 that the burden of showing state energy need shall rest with  
 14 the applicant.

15 Section 6. Severability. If a part of this act is  
 16 invalid, all valid parts that are severable from the invalid  
 17 part remain in effect. If a part of this act is invalid in  
 18 one or more of its applications, the part remains in effect  
 19 in all valid applications that are severable from the  
 20 invalid applications.

21 Section 7. Effective date. This act shall be in full  
 22 force and effect until six years after the date of  
 23 enactment.

-End-

Approved by Committee  
on Natural Resources

1 HOUSE BILL NO. 453  
2 INTRODUCED BY STOLTZ, JOHNSON, BRADLEY,  
3 SHELDEN, HUENNEKENS, KIMBLE  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE  
6 SUSPENSION OF ACTION ON CERTAIN APPLICATIONS FOR  
7 CERTIFICATES OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED  
8 FOR SIX (6) YEARS DURING WHICH TIME A COMPREHENSIVE MONTANA  
9 ENERGY POLICY AND PLAN SHALL BE FORMULATED; AND PROVIDING  
10 FOR AN IMMEDIATE EFFECTIVE DATE."  
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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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16 noting their complex economic, social and environmental  
17 impacts as well as the lack of clearly defined state energy  
18 conversion objectives, policies, and plans, finds that  
19 energy conversion facility siting must necessarily cease  
20 until such state objectives, policies, and plans are  
21 defined, developed, and subjected to citizen participation  
22 and review. The legislature further finds that action on  
23 individual utility siting applications without a  
24 comprehensive program could lead to economic, social, and  
25 environmental disruption in their cumulative impact. The

1 legislature pursuant to its mandate and authority under  
2 Article IX of the Montana constitution declares that it is  
3 the policy of this state that until a comprehensive state  
4 energy conversion policy and plan is developed and accepted,  
5 the siting of energy conversion facilities shall be  
6 suspended.

7 Section 2. Definitions. Unless the context clearly  
8 requires otherwise, in this act:

9 (1) "Board" means the board of natural resources and  
10 conservation.

11 (2) "Application" means an application for a  
12 certificate of environmental compatibility and public need  
13 under the Montana Utility Siting Act of 1973 for any utility  
14 facility:

15 (a) designated for, or capable of, generating at fifty  
16 (50) megawatts of electricity or more or any addition  
17 thereto (except pollution control facilities approved by the  
18 department of health and environmental sciences added to an  
19 existing plant) having an estimated cost in excess of two  
20 hundred fifty thousand dollars (\$250,000), or

21 (b) designed for, or capable of, producing one hundred  
22 million (100,000,000) cubic feet of gas per day or more, or  
23 any addition thereto, having an estimated cost in excess of  
24 two hundred fifty thousand dollars (\$250,000), or

25 (c) designed for, or capable of, producing fifty

1 thousand (50,000) barrels of liquid hydro-carbon products  
 2 per day or more or any addition thereto having an estimated  
 3 cost in excess of two hundred fifty thousand dollars  
 4 (\$250,000), or

5 (d) designed for or capable of enriching uranium  
 6 minerals.

7 Section 3. Suspension of action. (1) The board may  
 8 not grant or otherwise take any action on an application  
 9 until:

10 (a) six (6) years have elapsed from the effective date  
 11 of this act,

12 (b) the governor of the state of Montana has prepared  
 13 and submitted directly to the legislature a long-term,  
 14 comprehensive state energy conversion policy and plan  
 15 including but not limited to alternative long-term growth  
 16 goals, a state-wide siting inventory, and a proposed siting  
 17 policy for the coordinated siting of energy conversion  
 18 facilities to meet Montana's energy needs,

19 (c) the legislature of the state of Montana has had an  
 20 opportunity to respond to the policy and plan with  
 21 appropriate legislation.

22 (2) Provided that this act does not apply to any  
 23 application accepted by the department prior to ~~January--17~~  
 24 1975 PASSAGE AND APPROVAL OF THIS ACT.

25 Section 4. The board may suspend action on

1 applications not meeting the definition of application in  
 2 section 2 of this act if it determines, after a public  
 3 hearing conducted under the contested case procedures of the  
 4 Montana Administrative Procedure Act, that the cumulative  
 5 impact of those applications, if granted, would be contrary  
 6 to the policies and purposes of this act.

7 Section 5. The board may take action on applications  
 8 meeting the definition of application in section 2 of this  
 9 act if it determines, after a public hearing conducted under  
 10 the contested case procedures of the Montana Administrative  
 11 Procedure Act, that ~~there is a need in the state of Montana~~  
 12 ~~for the energy produced by the facility,--Provided,--however~~  
 13 ~~that the burden of showing state energy need shall rest with~~  
 14 ~~the applicant.~~ (1) THE FACILITY IS REQUIRED TO MEET STATE  
 15 ENERGY NEEDS, OR (2) UPON A CLEAR AND CONVINCING SHOWING BY  
 16 THE APPLICANT THE BURDEN IMPOSED ON INTERSTATE COMMERCE  
 17 OUTWEIGHS THE ADVERSE IMPACTS OF THE PROPOSED FACILITY ON  
 18 THE PUBLIC HEALTH, SAFETY, GENERAL WELFARE AND ENVIRONMENT  
 19 OF THE STATE OF MONTANA.

20 Section 6. Severability. If a part of this act is  
 21 invalid, all valid parts that are severable from the invalid  
 22 part remain in effect. If a part of this act is invalid in  
 23 one or more of its applications, the part remains in effect  
 24 in all valid applications that are severable from the  
 25 invalid applications.

1           Section 7. Effective date. This act ~~shall be in full~~  
2 ~~force and effect until six years after the date of enactment~~  
3 IS EFFECTIVE ON PASSAGE AND APPROVAL AND IS REPEALED SIX (6)  
4 YEARS AFTER THAT DATE.

-End-

HOUSE BILL NO. 453

INTRODUCED BY STOLTZ, JOHNSON, BRADLEY,

SHELDEN, HUENNEKENS, KIMBLE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE SUSPENSION OF ACTION ON CERTAIN APPLICATIONS FOR CERTIFICATES OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED FOR ~~SIX~~ TWO (2) YEARS DURING WHICH TIME A COMPREHENSIVE MONTANA ENERGY POLICY AND PLAN SHALL BE FORMULATED; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Statement of legislative findings and policy. The legislature, noting the apparent federal initiative for energy conversion facilities and further noting their complex economic, social and environmental impacts as well as the lack of clearly defined state energy conversion objectives, policies, and plans, finds that energy conversion facility siting must necessarily cease until such state objectives, policies, and plans are defined, developed, and subjected to citizen participation and review. The legislature further finds that action on individual utility siting applications without a comprehensive program could lead to economic, social, and environmental disruption in their cumulative impact. The

legislature pursuant to its mandate and authority under Article IX of the Montana constitution declares that it is the policy of this state that until a comprehensive state energy conversion policy and plan is developed and accepted, the siting of energy conversion facilities shall be suspended.

Section 2. Definitions. Unless the context clearly requires otherwise, in this act:

(1) "Board" means the board of natural resources and conservation.

(2) "Application" means an application for a certificate of environmental compatibility and public need under the Montana Utility Siting Act of 1973 for any ONLY A utility facility:

(a) designated for, or capable of, generating at fifty (50) megawatts of electricity or more or any addition thereto (except pollution control facilities approved by the department of health and environmental sciences added to an existing plant) having an estimated cost in excess of two hundred fifty thousand dollars (\$250,000), or

(b) designed for, or capable of, producing one hundred million (100,000,000) cubic feet of gas per day or more, or any addition thereto, having an estimated cost in excess of two hundred fifty thousand dollars (\$250,000), or

(c) designed for, or capable of, producing fifty

1 thousand (50,000) barrels of liquid hydrocarbon products per  
 2 day or more or any addition thereto having an estimated cost  
 3 in excess of two hundred fifty thousand dollars (\$250,000),  
 4 or

5 (d) designed for or capable of enriching uranium  
 6 minerals.

7 Section 3. Suspension of action. (1) The board may  
 8 not grant or otherwise take any action on an application  
 9 until:

10 (a) ~~six-(6)~~ TWO (2) years have elapsed from the  
 11 effective date of this act,

12 (b) the governor of the state of Montana has prepared  
 13 and submitted directly to the legislature a long-term,  
 14 comprehensive state energy conversion policy and plan  
 15 including but not limited to alternative long-term growth  
 16 goals, a statewide siting inventory, and a proposed siting  
 17 policy for the coordinated siting of energy conversion  
 18 facilities to meet Montana's energy needs,

19 (c) the legislature of the state of Montana has had an  
 20 opportunity to respond to the policy and plan with  
 21 appropriate legislation.

22 (2) Provided that this act does not apply to any  
 23 application accepted by the department prior to ~~January 17~~  
 24 1975 PASSAGE AND APPROVAL OF THIS ACT.

25 Section 4. The board may suspend action on

1 applications not meeting the definition of application in  
 2 section 2 of this act if it determines, after a public  
 3 hearing conducted under the contested case procedures of the  
 4 Montana Administrative Procedure Act, that the cumulative  
 5 impact of those applications, if granted, would be contrary  
 6 to the policies and purposes of this act.

7 Section 5. The board may take action on applications  
 8 meeting the definition of application in section 2 of this  
 9 act if it determines, after a public hearing conducted under  
 10 the contested case procedures of the Montana Administrative  
 11 Procedure Act, that ~~there is a need in the state of Montana~~  
 12 ~~for the energy produced by the facility. Provided, however,~~  
 13 ~~that the burden of showing state energy need shall rest with~~  
 14 ~~the applicant.~~ (1) THE FACILITY IS REQUIRED TO MEET STATE  
 15 ENERGY NEEDS, OR (2) UPON A CLEAR AND CONVINCING SHOWING BY  
 16 THE APPLICANT THE BURDEN IMPOSED ON INTERSTATE COMMERCE  
 17 OUTWEIGHS THE ADVERSE IMPACTS OF THE PROPOSED FACILITY ON  
 18 THE PUBLIC HEALTH, SAFETY, GENERAL WELFARE AND ENVIRONMENT  
 19 OF THE STATE OF MONTANA.

20 Section 6. Severability. If a part of this act is  
 21 invalid, all valid parts that are severable from the invalid  
 22 part remain in effect. If a part of this act is invalid in  
 23 one or more of its applications, the part remains in effect  
 24 in all valid applications that are severable from the  
 25 invalid applications.

1       Section 7. Effective date. This act ~~shall be in full~~  
2 ~~force and effect until six years after the date of enactment~~  
3 IS EFFECTIVE ON PASSAGE AND APPROVAL AND IS REPEALED ~~SIX (6)~~  
4 TWO (2) YEARS AFTER THAT DATE.

-End-

March 25, 1975

SENATE COMMITTEE OF THE WHOLE  
AMENDMENTS TO HOUSE BILL NO. 453

That House Bill No. 453, third reading, be amended as follows:

1. Amend title, line 8.  
Following: line 7  
Strike: "FOR TWO (2) YEARS"
2. Amend page 1, section 1, line 19.  
Following: "must"  
Strike: "necessarily cease"  
Insert: "be restrained"
3. Amend page 2, section 1, line 5.  
Following: "of"  
Insert: "certain"
4. Amend page 3, section 2, line 6.  
Following: line 6  
Insert: "(3) "Department" means the department of natural resources and conservation.  
"(4) "Certificate" means certificate of environmental compatibility and public need."
5. Amend page 3, section 3, lines 7 through 8 and line 9.  
Following: "(1)"  
Strike: "The board may not grant or otherwise take any action on an application until"  
Insert: "Once the board has granted a certificate for a utility facility as described in section 2 of this act the department shall not accept or act upon any application until"
6. Amend page 3, section 3, lines 10 and 11.  
Following: line 9  
Strike: "(a) TWO (2) years have elapsed from the effective date of this act,"  
Reletter: All subsequent subsections
7. Amend page 5, section 7, lines 3 and 4.  
Following: "APPROVAL"  
Strike: "AND IS REPEALED TWO (2) YEARS AFTER THAT DATE"

1 HOUSE BILL NO. 453

2 INTRODUCED BY STOLTZ, JOHNSON, BRADLEY,

3 SHELDEN, HUENNEKENS, KIMBLE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE  
6 SUSPENSION OF ACTION ON CERTAIN APPLICATIONS FOR  
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9 MONTANA ENERGY POLICY AND PLAN SHALL BE FORMULATED; AND  
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15 initiative for energy conversion facilities and further  
16 noting their complex economic, social and environmental  
17 impacts as well as the lack of clearly defined state energy  
18 conversion objectives, policies, and plans, finds that  
19 energy conversion facility siting must ~~necessarilly-cause~~ BE  
20 RESTRAINED until such state objectives, policies, and plans  
21 are defined, developed, and subjected to citizen  
22 participation and review. The legislature further finds  
23 that action on individual utility siting applications  
24 without a comprehensive program could lead to economic,  
25 social, and environmental disruption in their cumulative

1 impact. The legislature pursuant to its mandate and  
2 authority under Article IX of the Montana constitution  
3 declares that it is the policy of this state that until a  
4 comprehensive state energy conversion policy and plan is  
5 developed and accepted, the siting of CERTAIN energy  
6 conversion facilities shall be suspended.

7 Section 2. Definitions. Unless the context clearly  
8 requires otherwise, in this act:

9 (1) "Board" means the board of natural resources and  
10 conservation.

11 (2) "Application" means an application for a  
12 certificate of environmental compatibility and public need  
13 under the Montana Utility Siting Act of 1973 for ~~any~~ ONLY A  
14 utility facility:

15 (a) designated for, or capable of, generating at fifty  
16 (50) megawatts of electricity or more or any addition  
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18 department of health and environmental sciences added to an  
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20 hundred fifty thousand dollars (\$250,000), or

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22 million (100,000,000) cubic feet of gas per day or more, or  
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1 thousand (50,000) barrels of liquid hydrocarbon products per  
 2 day or more or any addition thereto having an estimated cost  
 3 in excess of two hundred fifty thousand dollars (\$250,000),  
 4 or

5 (d) designed for or capable of enriching uranium  
 6 minerals.

7 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL  
 8 RESOURCES AND CONSERVATION.

9 (4) "CERTIFICATE" MEANS CERTIFICATE OF ENVIRONMENTAL  
 10 COMPATIBILITY AND PUBLIC NEED.

11 Section 3. Suspension of action. (1) ~~The board may~~  
 12 ~~not grant or otherwise take any action on an application~~  
 13 ~~until~~ ONCE THE NEXT BOARD HAS GRANTED A CERTIFICATE FOR A  
 14 UTILITY FACILITY AS DESCRIBED IN SECTION 2 OF THIS ACT THE  
 15 DEPARTMENT SHALL NOT ACCEPT OR ACT UPON ANY APPLICATION  
 16 UNTIL:

17 ~~(a) six (6) two (2) years have elapsed from the~~  
 18 ~~effective date of this act,~~

19 ~~(b)~~ (A) the governor of the state of Montana has  
 20 prepared and submitted directly to the NEXT legislature a  
 21 long-term, comprehensive state energy conversion policy and  
 22 plan including but not limited to alternative long-term  
 23 growth goals, a statewide siting inventory, and a proposed  
 24 siting policy for the coordinated siting of energy  
 25 conversion facilities to meet Montana's energy needs,

1 ~~(e)~~ (B) the NEXT legislature of the state of Montana  
 2 has had an opportunity to respond to the policy and plan  
 3 with appropriate legislation.

4 (2) Provided that this act does not apply to any  
 5 application accepted by the department prior to ~~January 17~~  
 6 1975 PASSAGE AND APPROVAL OF THIS ACT.

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 8 applications not meeting the definition of application in  
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9 ~~force and effect until six years after the date of enactment~~  
10 IS EFFECTIVE ON PASSAGE AND APPROVAL AND IS REPEALED SIX (6)  
11 TWO (2) YEARS AFTER THAT DATE AND IS REPEALED TWO (2) YEARS  
12 AFTER THAT DATE.

-End-