

1 H BILL NO. 441
 2 INTRODUCED BY Brady Avelo Metcalf
 3 Kyle Vincent Frated

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE THE ENTIRE
 5 STATE WITHIN THE SCOPE OF PUBLIC NEED AS USED IN THE MAJOR
 6 FACILITY SITING ACT; AMENDING SECTION 70-810, R.C.M. 1947."

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

9 Section 1. Section 70-810, R.C.M. 1947, is amended to
 10 read as follows:

11 "70-810. Decision of board -- findings necessary for
 12 certificate -- conditions imposed. (1) Within ninety (90)
 13 days after the last day of the hearing, the board shall make
 14 complete findings, issue an opinion, and render a decision
 15 upon the record, either granting or denying the application
 16 as filed or granting it upon such terms, conditions, or
 17 modifications of the construction, operation, or maintenance
 18 of the facility as the board considers appropriate. The
 19 board may not grant a certificate either as proposed by the
 20 applicant or as modified by the board unless it shall find
 21 and determine:

22 (a) the basis of the need for the facility as
 23 determined by consumer requirements within the state of
 24 Montana;

25 (b) the nature of the probable environmental impact;

1 (c) that the facility represents the minimum adverse
 2 environmental impact, considering the state of available
 3 technology and the nature and economics of the various
 4 alternatives;

5 (d) each of the criteria listed in section 70-816;

6 (e) in the case of an electric, gas, or liquid
 7 transmission line or aqueduct, what part, if any, of the
 8 line or aqueduct shall be located underground; that the
 9 facility is consistent with regional plans for expansion of
 10 the appropriate grid of the utility systems serving the
 11 state and interconnected utility systems; and that the
 12 facility will serve the interests of utility system economy
 13 and reliability;

14 (f) that the location of the facility as proposed
 15 conforms to applicable state and local laws and regulations
 16 issued thereunder, except that the board may refuse to apply
 17 any local law or regulation if it finds that, as applied to
 18 the proposed facility, the law or regulation is unreasonably
 19 restrictive in view of the existing technology or of
 20 factors of cost or economics or of the needs of consumers
 21 whether located inside or outside of the directly affected
 22 government subdivisions;

23 (g) that the facility will serve the public interest,
 24 convenience, and necessity; and

25 (h) that duly authorized state air and water quality

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1 agencies have certified that the proposed facility will not
 2 violate state and federally established standards and
 3 implementation plans; the judgments of duly authorized air
 4 and water quality agencies are conclusive on all questions
 5 related to the satisfaction of state and federal air and
 6 water quality standards.

7 (2) If the board determines that the location of all
 8 or a part of the proposed facility should be modified, it
 9 may condition its certificate upon such modification,
 10 provided that the municipalities and persons residing
 11 therein affected by the modification have been given
 12 reasonable notice of the modification.

13 (3) In determining that the facility will serve the
 14 public interest, convenience, and necessity under subsection
 15 (1)(g) of this section, the board shall consider:

16 (i) the items listed in subsections (1)(a) through (b)
 17 of this section;

18 (ii) the benefits to the applicant and the state
 19 resulting from the proposed facility;

20 (iii) the effects of the economic activity resulting
 21 from the proposed facility;

22 (iv) the effects of the proposed facility on the public
 23 health, welfare, and safety;

24 (v) any other factors that it considers relevant.

25 (4) Considerations of need, public need, or public

1 convenience and necessity, and demonstration thereof by the
 2 applicant, shall apply only to utility facilities."

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