

1 House BILL NO. 702
2 INTRODUCED BY Hummel Frater

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO BRING CERTAIN
5 MINERAL PROCESSING PLANTS UNDER THE MAJOR FACILITY SITING
6 ACT; AMENDING SECTIONS 70-802 AND 70-803, R.C.M. 1947."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 70-802, R.C.M. 1947, is amended to
10 read as follows:

11 "70-802. Policy and legislative findings. It is the
12 constitutionally declared policy of this state to maintain
13 and improve a clean and healthful environment for present
14 and future generations; to protect the environmental life
15 support system from degradation and prevent unreasonable
16 depletion and degradation of natural resources; and to
17 provide for administration and enforcement to attain these
18 objectives.

19 The legislature finds that the construction of
20 additional power---or energy conversion or industrial
21 facilities may be necessary to meet the increasing need for
22 electricity, energy, and other products, and that these
23 facilities have an effect on the environment, an impact on
24 population concentration, and an effect on the welfare of
25 the citizens of this state. Therefore, it is necessary to

1 ensure that the location, construction and operation of
2 ~~power~~ and energy conversion and industrial facilities will
3 produce minimal adverse effects on the environment and upon
4 the citizens of this state by providing that a power or
5 energy conversion or industrial facility may not be
6 constructed or operated within this state without a
7 certificate of environmental compatibility and public need
8 acquired pursuant to this chapter."

9 Section 2. Section 70-803, R.C.M. 1947, is amended to
10 read as follows:

11 "70-803. Definitions. In this chapter, unless the
12 context requires otherwise:

13 (1) "Department" means the department of natural
14 resources and conservation provided for in Title 82A,
15 chapter 15.

16 (2) "Board" means the board of natural resources and
17 conservation provided for in section 82A-1509.

18 (3) "Facility" means:

19 (a) each plant, unit, or other facility and
20 associated facilities, ~~except for oil and gas refineries,~~

21 (i) designed for, or capable of, generating fifty (50)
22 megawatts of electricity or more, or any addition thereto
23 (except pollution control facilities approved by the
24 department of health and environmental sciences added to an
25 existing plant) having an estimated cost in excess of two

1 hundred fifty thousand dollars (\$250,000), or
 2 (ii) designed for, or capable of, producing twenty-five
 3 million (25,000,000) cubic feet of gas per day or more, or
 4 any addition thereto having an estimated cost in excess of
 5 two hundred fifty thousand dollars (\$250,000), or
 6 (iii) designed for, or capable of, producing
 7 twenty-five thousand (25,000) barrels of liquid hydrocarbon
 8 products per day or more, or any addition thereto having an
 9 estimated cost in excess of two hundred fifty thousand
 10 dollars (\$250,000), or
 11 (iv) designed for, or capable of, enriching uranium
 12 minerals, or any addition thereto having an estimated cost
 13 in excess of two hundred fifty thousand dollars (\$250,000),
 14 or
 15 (v) designed for, or capable of, utilizing, refining,
 16 or converting five hundred thousand (500,000) tons of coal
 17 per year or more, or any addition thereto having an
 18 estimated cost in excess of two hundred fifty thousand
 19 dollars (\$250,000);
 20 (b) each electric transmission line and associated
 21 facilities of a design capacity of more than sixty-nine
 22 (69) kilovolts, except that the term does not include an
 23 electric transmission line and associated facilities of a
 24 design capacity of two hundred thirty (230) kilovolts or
 25 less and ten (10) miles or less in length;

1 (c) each pipeline and associated facilities designed
 2 for, or capable of, transporting gas, water, or liquid
 3 hydrocarbon products from or to a facility located within or
 4 without this state of the size indicated in subsection
 5 (3)(a) of this section;
 6 (d) any use of geothermal resources, including the use
 7 of underground space in existence or to be created, for the
 8 creation, use, or conversion of energy;
 9 (e) any underground in situ gasification of coal;
 10 ~~(f) any industrial facility with a construction cost~~
 11 ~~of at least \$25 million which processes, smelts, reduces,~~
 12 ~~refines, or manufactures any natural resource for sale or~~
 13 ~~commercial use.~~
 14 (4) "Associated facilities" include, but are not
 15 limited to, transportation links of any kind, aqueducts,
 16 diversion dams, transmission substations, storage ponds,
 17 reservoirs, and any other device or equipment associated
 18 with the production or delivery of the energy form or
 19 product produced by a facility, except that the term does
 20 not include a facility.
 21 (5) "Commence to construct" means:
 22 (a) any clearing of land, excavation, construction, or
 23 other action that would affect the environment of the site
 24 or route of a facility, but does not mean changes needed for
 25 temporary use of sites or routes for nonutility purposes, or

1 uses in securing geological data, including necessary
2 borings to ascertain foundation conditions;

3 (b) the fracturing of underground formations by any
4 means, if such activity is related to the possible future
5 development of a gasification facility or a facility
6 employing geothermal resources, but does not include the
7 gathering of geological data by boring of test holes or
8 other underground exploration, investigation, or
9 experimentation;

10 (c) the commencement of eminent domain proceedings
11 under Title 93, chapter 99, for land or rights-of-way upon
12 or over which a facility may be constructed;

13 (d) the relocation or upgrading of an existing
14 facility defined by subsection (3)(b) or (c), including
15 upgrading to a design capacity covered by subsection (3)(b),
16 except that the term does not include normal maintenance or
17 repair of an existing facility.

18 (6) "Municipality" means any county or municipality
19 within this state.

20 (7) "Person" means any individual, group, firm,
21 partnership, corporation, cooperative, association,
22 government subdivision, government agency, local government,
23 or other organization or entity.

24 (8) "Utility" means any person engaged in any aspect
25 of the production, storage, sale, delivery or furnishing of

1 heat, electricity, gas, hydrocarbon products or energy in
2 any form for ultimate public use.

3 (9) "Certificate" means the certificate of
4 environmental compatibility and public need issued by the
5 board under this chapter that is required for the
6 construction or operation of a facility.

7 (10) "Addition thereto" means the installation of new
8 machinery and equipment which would significantly change the
9 conditions under which the certificate was issued.

10 ~~(11) "Natural resource" means any metalliferous or~~
11 ~~nonmetalliferous mineral products, or combination or~~
12 ~~compound of such products, but does not mean timber or any~~
13 ~~products thereof."~~

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