

CHAPTER NO. 553.

HOUSE BILL NO. 244

INTRODUCED BY ERNST

IN THE HOUSE

January 18, 1979	Introduced and referred to Committee on Local Government.
February 20, 1979	Committee recommend bill do pass as amended. Report adopted.
February 21, 1979	Printed and placed on members' desks.
February 22, 1979	Second reading, do pass. Considered correctly engrossed.
February 23, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Local Government.
March 22, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 24, 1979	Second reading, concurred in.
March 27, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 28, 1979	Returned from second house. Concurred in as amended.
March 31, 1979	Second reading, amendments adopted.
April 2, 1979	Third reading, amendments adopted. Sent to enrolling. Reported correctly enrolled.

1 HOUSE BILL NO. 244  
2 INTRODUCED BY Ernst

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MONTANA  
5 MAJOR FACILITY SITING ACT; REQUIRING LOCAL GOVERNMENTS  
6 ENTITLED TO PARTICIPATE IN A CERTIFICATION PROCEEDING TO  
7 FILE A STATEMENT OF INTENT TO PARTICIPATE; INVOLVING LOCAL  
8 GOVERNMENTS IN THE LONG-RANGE PLANNING PROCESS; AMENDING  
9 SECTIONS 75-20-221 AND 75-20-501, MCA."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 75-20-221, MCA, is amended to read:

13 "75-20-221. Parties to certification proceeding --  
14 waiver -- ~~statement of intent to participate.~~ (1) The  
15 parties to a certification proceeding include:

- 16 (a) the applicant;
- 17 (b) each ~~municipality~~ and unit of local government  
18 agency entitled to receive service of a copy of the  
19 application under 75-20-211(3);
- 20 (c) any person residing in a municipality entitled to  
21 receive service of a copy of the application under  
22 75-20-211(5);
- 23 (d) any nonprofit organization formed in whole or in  
24 part to promote conservation or natural beauty; to protect  
25 the environment, personal health, or other biological

1 values; to preserve historical sites; to promote consumer  
2 interests; to represent commercial and industrial groups; or  
3 to promote the orderly development of the areas in which the  
4 facility is to be located; or

- 5 (e) any other interested person; and
- 6 (f) the department.

7 (2) Any party identified in (b), (c), (d), and (e) of  
8 subsection (1) waives his right to be a party if he does not  
9 participate orally at the hearing before the board.

10 (3) Each unit of local government entitled to receive  
11 service of a copy of the application under 75-20-211(3)  
12 shall file with the board a statement showing whether the  
13 unit of local government intends to participate in the  
14 certification proceeding. If the unit of local government  
15 does not intend to participate, it shall list in this  
16 statement its reasons for failing to do so. This statement  
17 of intent shall be published before the proceeding begins in  
18 a newspaper of general circulation within the jurisdiction  
19 of the applicable unit of local government."

20 Section 2. Section 75-20-501, MCA, is amended to read:

21 "75-20-501. Annual long-range plan submitted --  
22 contents -- available to public. (1) Each utility and each  
23 person contemplating the construction of a facility within  
24 this state in the ensuing 10 years shall furnish annually to  
25 the department for its review a long-range plan for the

1 construction and operation of facilities.

2 (2) The plan shall be submitted on April 1 of each  
3 year and shall include the following:

4 (a) the general location, size, and type of all  
5 facilities to be owned and operated by the utility or person  
6 whose construction is projected to commence during the  
7 ensuing 10 years, as well as those facilities to be removed  
8 from service during the planning period;

9 (b) in the case of utility facilities, a description  
10 of efforts by the utility or person to coordinate the plan  
11 with other utilities or persons so as to provide a  
12 coordinated regional plan for meeting the energy needs of  
13 the region;

14 ~~(c) a statement affirming that the utility or person~~  
15 ~~required to submit a plan has consulted with each unit of~~  
16 ~~local government that may be affected by a facility included~~  
17 ~~in the plan in order to minimize potential adverse impacts~~  
18 ~~on the unit of local government;~~

19 ~~(d)~~ a description of the efforts to involve  
20 environmental protection and land use planning agencies in  
21 the planning process, as well as other efforts to identify  
22 and minimize environmental problems at the earliest possible  
23 stage in the planning process;

24 ~~(e)~~ projections of the demand for the service  
25 rendered by the utility or person and explanation of the

1 basis for those projections and a description of the manner  
2 and extent to which the proposed facilities will meet the  
3 projected demand; and

4 ~~(f)~~ additional information that the board by rule  
5 or the department on its own initiative or upon the advice  
6 of interested state agencies might request in order to carry  
7 out the purposes of this chapter.

8 (3) The plan shall be made available to the public by  
9 the department. The utility or person shall give public  
10 notice throughout the state of its plan by filing the plan  
11 with the environmental quality council, the department of  
12 health and environmental sciences, the department of  
13 highways, the department of public service regulation, the  
14 department of state lands, and the department of community  
15 affairs. Citizen environmental protection and resource  
16 planning groups and other interested persons may obtain a  
17 plan by written request and payment therefor to the  
18 department."

-End-

Approved by Comm.  
on Local Government

HOUSE BILL NO. 244

INTRODUCED BY ERNST

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MONTANA MAJOR FACILITY SITING ACT; REQUIRING LOCAL GOVERNMENTS ENTITLED TO PARTICIPATE IN A CERTIFICATION PROCEEDING TO FILE A STATEMENT OF INTENT TO PARTICIPATE; INVOLVING LOCAL GOVERNMENTS IN THE LONG-RANGE PLANNING PROCESS; AMENDING SECTIONS ~~75-20-211~~, 75-20-221, AND 75-20-501, MCA."

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

~~SECTION 1, SECTION 75-20-211, MCA, IS AMENDED TO READ:~~

"75-20-211. Application -- filing and contents -- proof of service and notice. (1) (a) An applicant for a certificate shall file with the department a verified application, in such form as the board by rule or the department by order prescribes, containing the following information:

(i) a description of the location and of the facility to be built thereon;

(ii) a summary of any studies which have been made of the environmental impact of the facility;

(iii) a statement explaining the need for the facility;

(iv) a description of any reasonable alternate location or locations for the proposed facility, a description of the

comparative merits and detriments of each location submitted, and a statement of the reasons why the primary proposed location is best suited for the facility; and

(v) such other information as the applicant considers relevant or as the board by rule or the department by order requires.

(b) A copy or copies of the studies referred to in subsection (1)(a)(ii) above shall be filed with the department, if ordered, and shall be available for public inspection.

(2) An application may consist of an application for two or more facilities in combination which are physically and directly attached to each other and are operationally a single operating entity.

(3) An application shall be accompanied by proof of service of a copy of the application on the chief executive officer of each municipality UNIT OF LOCAL GOVERNMENT and the head of each government agency charged with the duty of protecting the environment or of planning land use in the area in which any portion of the facility is to be located, both as primarily and as alternatively proposed.

(4) The copy of the application shall be accompanied by a notice specifying the date on or about which the application is to be filed.

(5) An application shall also be accompanied by proof

1 that public notice thereof was given to persons residing in  
 2 the municipalities UNITS OF LOCAL GOVERNMENT entitled to  
 3 receive notice under subsection (3) of this section by the  
 4 publication of a summary of the application and the date on  
 5 or about which it is to be filed in those newspapers as will  
 6 serve substantially to inform those persons of the  
 7 application.

8 ~~(6) -- In addition, the department may, after fittingly~~  
 9 ~~require the applicant to serve notice of the application or~~  
 10 ~~copies thereof, or both, upon such other persons, and file~~  
 11 ~~proof thereof, as the department may deem appropriate."~~

12 Section 2. Section 75-20-221, MCA, is amended to read:

13 "75-20-221. Parties to certification proceeding --  
 14 waiver -- statement of intent to participate. (1) The  
 15 parties to a certification proceeding include:

- 16 (a) the applicant;
- 17 (b) each ~~municipality~~ and unit of local government AND  
 18 GOVERNMENT AGENCY agency entitled to receive service of a  
 19 copy of the application under 75-20-211(3);
- 20 (c) any person residing in a municipality entitled to  
 21 receive service of a copy of the application under  
 22 75-20-211(5);
- 23 (d) any nonprofit organization formed in whole or in  
 24 part to promote conservation or natural beauty; to protect  
 25 the environment, personal health, or other biological

1 values; to preserve historical sites; to promote consumer  
 2 interests; to represent commercial and industrial groups; or  
 3 to promote the orderly development of the areas in which the  
 4 facility is to be located; or

- 5 (e) any other interested person; and
- 6 (f) the department.

7 (2) Any party identified in (b), (c), (d), and (e) of  
 8 subsection (1) waives his right to be a party if he does not  
 9 participate orally at the hearing before the board.

10 ~~(3) Each unit of local government entitled to receive~~  
 11 ~~service of a copy of the application under 75-20-211(3)~~  
 12 ~~shall file with the board a statement showing whether the~~  
 13 ~~unit of local government intends to participate in the~~  
 14 ~~certification proceeding. If the unit of local government~~  
 15 ~~does not intend to participate, it shall list in this~~  
 16 ~~statement its reasons for failing to do so. This statement~~  
 17 ~~of intent shall be published before the proceeding begins in~~  
 18 ~~a newspaper of general circulation within the jurisdiction~~  
 19 ~~of the applicable unit of local government."~~

20 Section 3. Section 75-20-501, MCA, is amended to read:

21 "75-20-501. Annual long-range plan submitted --  
 22 contents -- available to public. (1) Each utility and each  
 23 person contemplating the construction of a facility within  
 24 this state in the ensuing 10 years shall furnish annually to  
 25 the department for its review a long-range plan for the

1 construction and operation of facilities.

2 (2) The plan shall be submitted on April 1 of each  
3 year and shall include the following:

4 (a) the general location, size, and type of all  
5 facilities to be owned and operated by the utility or person  
6 whose construction is projected to commence during the  
7 ensuing 10 years, as well as those facilities to be removed  
8 from service during the planning period;

9 (b) in the case of utility facilities, a description  
10 of efforts by the utility or person to coordinate the plan  
11 with other utilities or persons so as to provide a  
12 coordinated regional plan for meeting the energy needs of  
13 the region;

14 ~~(c) a statement affirming that the utility or person~~  
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16 ~~local government that may be affected by a facility included~~  
17 ~~in the plan in order to minimize potential adverse impacts~~  
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19 ~~(c)(d)~~ a description of the efforts to involve  
20 environmental protection and land use planning agencies in  
21 the planning process, as well as other efforts to identify  
22 and minimize environmental problems at the earliest possible  
23 stage in the planning process;

24 ~~(d)(e)~~ projections of the demand for the service  
25 rendered by the utility or person and explanation of the

1 basis for those projections and a description of the manner  
2 and extent to which the proposed facilities will meet the  
3 projected demand; and

4 ~~(e)(f)~~ additional information that the board by rule  
5 or the department on its own initiative or upon the advice  
6 of interested state agencies might request in order to carry  
7 out the purposes of this chapter.

8 (3) The plan shall be made available to the public by  
9 the department. The utility or person shall give public  
10 notice throughout the state of its plan by filing the plan  
11 with the environmental quality council, the department of  
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13 the region;

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25 rendered by the utility or person and explanation of the

1 basis for those projections and a description of the manner  
2 and extent to which the proposed facilities will meet the  
3 projected demand; and

4 (f) additional information that the board by  
5 rule or the department on its own initiative or upon the  
6 advice of interested state agencies might request in order  
7 to carry out the purposes of this chapter.

8 (3) The plan shall be FURNISHED TO THE GOVERNING BODY  
9 OF EACH COUNTY IN WHICH ANY FACILITY INCLUDED IN THE PLAN  
10 UNDER (2)(A) OF THIS SECTION IS PROPOSED TO BE LOCATED AND  
11 made available to the public by the department. The utility  
12 or person shall give public notice throughout the state of  
13 its plan by filing the plan with the environmental quality  
14 council, the department of health and environmental  
15 sciences, the department of highways, the department of  
16 public service regulation, the department of state lands,  
17 and the department of community affairs. Citizen  
18 environmental protection and resource planning groups and  
19 other interested persons may obtain a plan by written  
20 request and payment therefor to the department."

-End-

March 22, 1979

SENATE STANDING COMMITTEE REPORT  
(Local Government)

That House Bill No. 244, third reading bill, be amended as follows:

1. Page 5, line 14.

Strike: lines 14 through 18 in their entirety  
Renumber: subsequent subsections

2. Page 6, line 8.

Following: "be"

Insert: "furnished to the governing body of each county in  
which any facility included in the plan under (2) (a) of  
this section is proposed to be located and"