

House Bill 668

In The House

February 6, 1981	Introduced and referred to Committee on Judiciary.
February 17, 1981	Committee recommend bill do not pass. Objection. Rereferred to Committee on Judiciary.
February 23, 1981	Committee recommend bill do pass as amended. Bill printed and placed on members' desks.
February 24, 1981	Second reading do not pass.

1 HOUSE BILL NO. 668 *Moore*
 2 INTRODUCED BY *Curtis Conroy* *Kanduk Rota* *BURNETT*
 3 *Spencer, Hoffmann* *Jay Bragg* *Salvo*
 4 *Kropp* *Linnett* *Callad*
 A BILL FOR AN ACT ENTITLED: "AN ACT TO AWARD COURT COSTS, ATTORNEY'S

5 FEES, AND COSTS OF CONSTRUCTION DELAYS TO
 6 DEFENDANTS IN LAW SUITS THAT DELAY CONSTRUCTION OF ENERGY
 7 PROJECTS AND REQUIRING SECURITY FOR SUCH COSTS AND FEES."

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

10 Section 1. Payment of costs and attorney's fees. In
 11 any civil case in which the actions of any plaintiff,
 12 including the bringing of the case, cause a delay in the
 13 licensure, permitting, location, construction, or
 14 development of any otherwise lawful industrial or commercial
 15 program, project, or facility designed or intended to
 16 ultimately produce or transmit any kind of gaseous or
 17 electrical energy or energy-bearing substance, the court
 18 shall, if the case is finally resolved in favor of the
 19 defendant, award to the defendant and against the plaintiff
 20 those costs provided in 25-10-201, reasonable attorney's
 21 fees, and any additional costs of construction or
 22 development incurred by the defendant as a result of the
 23 delay.

24 Section 2. Security for certain actions required. (1)
 25 In any civil case in which the actions of any plaintiff,

1 including the bringing of the case, may cause a delay in the
 2 licensure, permitting, location, construction, or
 3 development of any otherwise lawful industrial or commercial
 4 program, project, or facility designed or intended to
 5 ultimately produce or transport any kind of gaseous or
 6 electrical energy or energy-bearing substance, security
 7 shall be required by the court for all of those fees and
 8 costs that may be awarded under [section 1].

9 (2) When security is required, all proceedings in the
 10 action must be stayed until an undertaking, executed by two
 11 or more persons, is filed with the clerk to the effect that
 12 they will pay the costs and fees as may be awarded against
 13 the plaintiff under [section 1]. Such security must be filed
 14 within 30 days of commencement of the action. A new or an
 15 additional undertaking shall be ordered by the court upon
 16 proof that the original undertaking is insufficient
 17 security, and proceedings in the action must be stayed until
 18 the new or additional undertaking is executed and filed.

19 (3) After the lapse of 30 days from the commencement
 20 of the action or from the issuance of an order for new or
 21 additional security, whichever is applicable, and upon proof
 22 of such lapse and that no undertaking as required has been
 23 filed, the court shall order the action to be dismissed.

24 Section 3. Severability. If a part of this act is
 25 invalid, all valid parts that are severable from the invalid

-2- INTRODUCED BILL
 HB 668

LC 2170/01

1 part remain in effect. If a part of this act is invalid in
2 one or more of its applications, the part remains in effect
3 in all valid applications that are severable from the
4 invalid applications.

-End-

Approved by Committee
on Judiciary

HOUSE BILL NO. 668

INTRODUCED BY CURTISS, CONROY, KANDUCH,
ROTH, BURNETT, MOORE, SIVERTSEN, HAFFERMAN,
HARP, BRIGGS, SALES, KROPP, BENNETT, ELLERD

A BILL FOR AN ACT ENTITLED: "AN ACT TO ~~AWARD~~ ALLOW AWARDING
OF COURT COSTS, ATTORNEY'S FEES, AND COSTS OF CONSTRUCTION
DELAYS TO DEFENDANTS IN LAW SUITS THAT DELAY CONSTRUCTION OF
ENERGY PROJECTS AND ~~REQUIRING~~ PROVIDING SECURITY FOR SUCH
COSTS AND FEES."

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

Section 1. Payment of costs and attorney's fees. In
any civil case in which the actions of any plaintiff,
including the bringing of the case, cause a delay in the
licensure, permitting, location, construction, or
development of any otherwise lawful industrial or commercial
program, project, or facility designed or intended to
ultimately produce or transmit any kind of gaseous or
electrical energy or energy-bearing substance, the court
~~shall~~ MAY, if the case is finally resolved in favor of the
defendant, award to the defendant and against the plaintiff
those costs provided in 25-10-201, reasonable attorney's
fees, and any additional costs of---construction---or
development--incurred--by--the--defendant--as--a--result--of--the

~~delay THAT APPEAR TO THE COURT TO CLEARLY RESULT FROM~~
~~FRIVOLOUS ACTION BY THE PLAINTIFF, DEVOID OF MERIT, AND~~
~~TAKEN SOLELY TO CAUSE DELAY AND EXPENSE TO THE OPPOSING~~
~~PARTY.~~

Section 2. Security for certain actions required. (1)
In any civil case in which the actions of any plaintiff,
including the bringing of the case, may cause a delay in the
licensure, permitting, location, construction, or
development of any otherwise lawful industrial or commercial
program, project, or facility designed or intended to
ultimately produce or transport any kind of gaseous or
electrical energy or energy-bearing substance, security
~~shall~~ MAY be required by the court for all of those fees and
costs that may be awarded under [section 1].

(2) When security is required, all proceedings in the
action must be stayed until an undertaking, executed by two
or more persons, is filed with the clerk to the effect that
they will pay the costs and fees as may be awarded against
the plaintiff under [section 1]. Such security must be filed
within 30 days of commencement of the action. A new or an
additional undertaking shall be ordered by the court upon
proof that the original undertaking is insufficient
security, and proceedings in the action must be stayed until
the new or additional undertaking is executed and filed.

(3) After the lapse of 30 days from the commencement

HB 0668/02

1 of the action or from the issuance of an order for new or
2 additional security, whichever is applicable, and upon proof
3 of such lapse and that no undertaking as required has been
4 filed, the court shall order the action to be dismissed.

5 Section 3. Severability. If a part of this act is
6 invalid, all valid parts that are severable from the invalid
7 part remain in effect. If a part of this act is invalid in
8 one or more of its applications, the part remains in effect
9 in all valid applications that are severable from the
10 invalid applications.

-End-