

HOUSE BILL NO. 765

INTRODUCED BY DONALDSON, KROPP, SHONTZ, HARPER

IN THE HOUSE

February 14, 1981	Introduced and referred to Committee on Local Government.
February 16, 1981	Fiscal note requested.
February 20, 1981	Fiscal note returned.
February 21, 1981	Committee recommend bill do pass. Report adopted.
February 23, 1981	Bill printed and placed on members' desks.
February 24, 1981	Second reading, do pass as amended.
February 25, 1981	On motion rules suspended and bill placed on third reading this day.  Correctly engrossed.  Third reading, passed. Ayes, 73; Noes, 23. Transmitted to Senate.

IN THE SENATE

March 3, 1981	Introduced and referred to Committee on Local Government.
March 26, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 30, 1981	Motion pass consideration.

March 31, 1981

Second reading, concurred in as amended.

On motion rules suspended. Bill placed on calendar for third reading this day and allowed to be transmitted on 71st legislative day. Motion adopted.

Third reading, concurred in as amended. Ayes, 40; Noes, 9.

#### IN THE HOUSE

April 1, 1981

Returned from Senate with amendments.

April 9, 1981

Second reading, amendments concurred in.

On motion rules suspended and bill placed on third reading this day.

Third reading, amendments concurred in. Ayes, 86; Noes, 8.

Sent to enrolling.

April 13, 1981

Correctly enrolled.

April 14, 1981

Signed by Speaker.

April 15, 1981

Signed by President.

Delivered to Governor.

April 20, 1981

Returned from Governor with recommended amendments.

April 22, 1981

Second reading, Governor's amendments concurred in.

April 22, 1981

On motion rules suspended and bill placed on third reading this day.

Third reading, Governor's amendments concurred in. Ayes, 87; Noes, 8. Transmitted to Senate.

IN THE SENATE

April 23, 1981

Second reading, Governor's amendments concurred in.

Third reading, Governor's amendments concurred in. Ayes, 42; Noes, 5.

IN THE HOUSE

April 23, 1981

Returned from Senate. Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 765  
2 INTRODUCED BY Donaldson Krupp  
3 Hager

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR  
5 MUNICIPAL REGULATION OF MUNICIPALLY OWNED UTILITIES; TO  
6 ESTABLISH MAXIMUM INCREASES ALLOWED; TO REQUIRE REPORTING TO  
7 THE PUBLIC SERVICE COMMISSION AND THE MONTANA CONSUMER  
8 COUNSEL; AND AMENDING SECTION 69-3-101, MCA."

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

11 NEW SECTION. Section 1. Municipal utilities --  
12 regulation by municipality -- limitation. A municipality has  
13 the power and authority to regulate, establish, and change,  
14 as it considers proper, rates, charges, and classifications  
15 imposed for utility services to its inhabitants and other  
16 persons served by municipal utility systems. Rates, charges,  
17 and classifications shall be reasonable and just and, except  
18 as provided in [section 5], they may not be raised more than  
19 15% per year or, in the case of mandated federal and state  
20 capital improvements, the increase may not exceed amounts  
21 necessary to pay principal and interest on the bonds or  
22 loans required to finance the local government's share of  
23 the mandated improvements.

24 NEW SECTION. Section 2. Municipal rate hearing  
25 required -- notice. (1) If the governing body of a

1 municipality considers it advisable to regulate, establish,  
2 or change rates, charges, or classifications imposed on its  
3 customers, it shall order a hearing to be held before it at  
4 a time and place specified.

5 (2) Notice of the hearing shall be published in a  
6 newspaper as provided in 7-1-4127.

7 (3) The notice shall be published three times with at  
8 least 6 days separating each publication. The first  
9 publication may be no more than 28 days prior to the  
10 hearing, and the last publication may be no less than 3 days  
11 prior to the hearing.

12 (4) The published notice must contain:  
13 (a) the date, time, and place of the hearing;  
14 (b) a brief statement of the proposed action; and  
15 (c) the address and telephone number of a person who  
16 may be contacted for further information regarding the  
17 hearing.

18 (5) Notice of all hearings shall be mailed first  
19 class, postage prepaid, to the Montana consumer counsel.

20 NEW SECTION. Section 3. Conduct of municipal rate  
21 hearing. (1) At the hearing, all persons, associations,  
22 corporations or companies affected or interested, including  
23 the Montana consumer counsel, may be present and represented  
24 by counsel. The hearing may be continued from time to time  
25 by the governing body of the municipality. At the conclusion

1 of the hearing, all interested parties shall be allowed to  
2 make such arguments as they may consider proper.

3 (2) Within 30 days after the hearing, the governing  
4 body of the municipality shall issue its decision. The  
5 decision is final 10 days after being filed with the  
6 municipal clerk.

7 NEW SECTION. Section 4. Annual report to public  
8 service commission. A municipality regulating its utility  
9 services must make an annual report to the public service  
10 commission and furnish a copy thereof to the Montana  
11 consumer counsel. The report shall set forth the rates and  
12 number of users of each service and classification, all rate  
13 increases, and the total income and expenditures of the  
14 utility. Such information shall be provided for the current  
15 year and the previous year. The annual report shall be sent  
16 to the public service commission no later than September 30  
17 annually.

18 NEW SECTION. Section 5. Rate increases over maximum.  
19 If a municipal utility requires rate increases in excess of  
20 15% in any one year or rate increases for capital  
21 improvements, it must make application for such increases to  
22 the public service commission.

23 NEW SECTION. Section 6. Rules for operation of  
24 municipal utility. Each municipal utility shall adopt, with  
25 the concurrence of the municipal governing body, rules for

1 the operation of the utility. The rules shall contain, at a  
2 minimum, those requirements of good practice which can be  
3 normally expected for the operation of a utility. They shall  
4 define or provide for use of meter or flat rate user  
5 charges, the classification of users, applications for  
6 service, and uses of the service. The rules shall outline  
7 the utility's procedure for discontinuance of service and  
8 reestablishment of service as well as the extension of  
9 service to users within the municipal boundaries and outside  
10 the municipal boundaries.

11 Section 7. Section 69-3-101, MCA, is amended to read:

12 "69-3-101. Meaning of term public utility. ~~(1) Except~~  
13 ~~as provided in subsection (2), the~~ The term "public  
14 utility", within the meaning of this chapter, shall embrace  
15 every corporation, both public and private, company,  
16 individual, association of individuals, their lessees,  
17 trustees, or receivers appointed by any court whatsoever,  
18 that now or hereafter may own, operate, or control any plant  
19 or equipment, any part of a plant or equipment, or any water  
20 right within the state for the production, delivery, or  
21 furnishing for or to other persons, firms, associations, or  
22 corporations, private or municipal:

- 23 ~~(1)(a)~~ heat;
- 24 ~~(2)(b)~~ street-railway service;
- 25 ~~(3)(c)~~ light;

1       ~~(4)(d)~~ power in any form or by any agency;  
2       ~~(5)(a)~~ water for business, manufacturing, household  
3 use, or sewerage service, whether within the limits of  
4 municipalities, towns, and villages or elsewhere;  
5       ~~(6)(f)~~ telegraph or telephone service.  
6       (2) A utility owned and regulated by a municipality as  
7 provided in [sections 1 through 6] is not a public utility  
8 within the meaning of this chapter."

-End-

HB 765

STATE OF MONTANA

REQUEST NO. 399-81

FISCAL NOTE

Form BD-15

In compliance with a written request received February 16, 19 81, there is hereby submitted a Fiscal Note for House Bill 765 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

An act providing for local regulations of municipal utilities and rate regulation if increases are less than 15% or result from federal or state regulations.

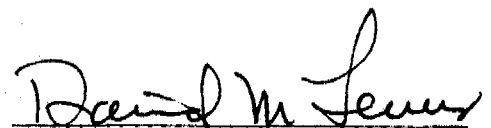
Assumptions

No personal savings would be achieved. Operating expenses associated with non-Helena public hearings would decrease by 2/3's.

<u>State</u>	<u>FY 82</u>	<u>FY 83</u>
Revenue	0	0
Expenditures	(3840)	(4224)

Local Impact

- Hearing expenses would be transferred to localities.
- More sophisticated capital projects may be undertaken than needed.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/21/81





1 of the hearing, all interested parties shall be allowed to  
2 make such arguments as they may consider proper.

3 (2) Within 30 days after the hearing, the governing  
4 body of the municipality shall issue its decision. The  
5 decision is final 10 days after being filed with the  
6 municipal clerk.

7 **NEW SECTION.** Section 4. Annual report to public  
8 service commission. A municipality regulating its utility  
9 services must make an annual report to the public service  
10 commission and furnish a copy thereof to the Montana  
11 consumer counsel. The report shall set forth the rates and  
12 number of users of each service and classification, all rate  
13 increases, and the total income and expenditures of the  
14 utility. Such information shall be provided for the current  
15 year and the previous year. The annual report shall be sent  
16 to the public service commission no later than September 30  
17 annually.

18 **NEW SECTION.** Section 5. Rate increases over maximum.  
19 If a municipal utility requires rate increases in excess of  
20 15% in any one year or rate increases for capital  
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1 the operation of the utility. The rules shall contain, at a  
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15 every corporation, both public and private, company,  
16 individual, association of individuals, their lessees,  
17 trustees, or receivers appointed by any court whatsoever,  
18 that now or hereafter may own, operate, or control any plant  
19 or equipment, any part of a plant or equipment, or any water  
20 right within the state for the production, delivery, or  
21 furnishing for or to other persons, firms, associations, or  
22 corporations, private or municipal:

23 ~~(1)(a)~~ heat;

24 ~~(2)(b)~~ street-railway service;

25 ~~(3)(c)~~ light;

1       ~~(4)(d)~~ power in any form or by any agency;  
2       ~~(5)(a)~~ water for business, manufacturing, household  
3 use, or sewerage service, whether within the limits of  
4 municipalities, towns, and villages or elsewhere;  
5       ~~(6)(f)~~ telegraph or telephone service.  
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7 ~~provided in [sections 1 through 6] is not a public utility~~  
8 ~~within the meaning of this chapter."~~

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19 15% per year or, in the case of mandated federal and state  
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3 customers, it shall order a hearing to be held before it at  
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5 (2) Notice of the hearing shall be published in a  
6 newspaper as provided in 7-1-4127.

7 (3) The notice shall be published three times with at  
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20 15%--per--year TO YIELD MORE THAN A 12% INCREASE IN TOTAL  
21 ANNUAL REVENUES or, in the case of mandated federal and  
22 state capital improvements, the increase may not exceed  
23 amounts necessary to ~~pay principal and interest on the bonds~~  
24 ~~or loans~~ MEET THE REQUIREMENTS OF BOND INDENTURES OR LOAN  
25 AGREEMENTS required to finance the local government's share

1 of the mandated improvements.

2 NEW SECTION. Section 2. Municipal rate hearing  
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5 or change rates, charges, or classifications imposed on its  
6 customers, it shall order a hearing to be held before it at  
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8 (2) Notice of the hearing shall be published in a  
9 newspaper as provided in 7-1-4127.

10 (3) (A) The notice shall be published three times with  
11 at least 6 days separating each publication. The first  
12 publication may be no more than 28 days prior to the  
13 hearing, and the last publication may be no less than 3 days  
14 prior to the hearing.

15 (B) THE NOTICE MUST ALSO BE MAILED AT LEAST 7 DAYS AND  
16 NOT MORE THAN 30 DAYS PRIOR TO THE HEARING TO PERSONS SERVED  
17 BY THE UTILITY. THE NOTICE SHALL ACCOMPANY THE BILL FOR  
18 SERVICES OF THAT UTILITY AND MUST BE MAILED WITHIN THE  
19 PRESCRIBED TIME PERIOD. THIS NOTICE MUST CONTAIN AN ESTIMATE  
20 OF THE AMOUNT THE CUSTOMER'S AVERAGE MONTHLY BILL WILL  
21 INCREASE.

22 (4) The published notice must contain:

23 (a) the date, time, and place of the hearing;

24 (b) a brief statement of the proposed action; and

25 (c) the address and telephone number of a person who

1 may be contacted for further information regarding the  
2 hearing.

3 (5) Notice of all hearings shall be mailed first  
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9 by counsel. The hearing may be continued from time to time  
10 by the governing body of the municipality. At the conclusion  
11 of the hearing, all interested parties shall be allowed to  
12 make such arguments as they may consider proper.

13 (2) Within 30 days after the hearing, the governing  
14 body of the municipality shall issue its decision. The  
15 decision is final 10 days after being filed with the  
16 municipal clerk. A COPY OF EACH REVISED RATE SCHEDULE SHALL  
17 BE FILED WITH THE PUBLIC SERVICE COMMISSION UPON FINAL  
18 DECISION.

19 NEW SECTION. Section 4. Annual report to public  
20 service commission. A municipality regulating its utility  
21 services must make an annual report to the public service  
22 commission and furnish a copy thereof to the Montana  
23 consumer counsel. The report shall set forth the rates and  
24 number of users of each service and classification, all rate  
25 increases, and the total income and expenditures of the

1 utility AS PROVIDED IN 69-3-203. ~~Such information shall be~~  
2 ~~provided for the current year and the previous year. The~~  
3 ~~annual report shall be sent to the public service commission~~  
4 ~~no later than September 30 annually.~~

5 NEW SECTION. Section 5. Rate increases over maximum.  
6 If a municipal utility requires rate increases ~~in excess of~~  
7 15% THAT YIELD TOTAL REVENUES IN EXCESS OF 12% in any one  
8 year or rate increases for MANDATED FEDERAL AND STATE  
9 capital improvements FOR WHICH THE INCREASE EXCEEDS AMOUNTS  
10 NECESSARY TO MEET THE REQUIREMENTS OF BOND INDENTURES OR  
11 LOAN AGREEMENTS REQUIRED TO FINANCE THE LOCAL GOVERNMENT'S  
12 SHARE OF THE MANDATED IMPROVEMENTS, it must make application  
13 for such increases to the public service commission.

14 NEW SECTION. Section 6. Rules for operation of  
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17 the operation of the utility. The rules shall contain, at a  
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20 define or provide for use of meter or flat rate user  
21 charges, the classification of users, applications for  
22 service, and uses of the service. The rules shall outline  
23 the utility's procedure for discontinuance of service and  
24 reestablishment of service as well as the extension of  
25 service to users within the municipal boundaries and outside

1 the municipal boundaries. THE RULE SHALL PROVIDE THAT RATE  
 2 INCREASES FOR COMPARABLE CLASSIFICATIONS AND ZONES OUTSIDE  
 3 THE MUNICIPAL BOUNDARIES MAY NOT EXCEED THOSE SET WITHIN THE  
 4 MUNICIPAL LIMITS UNDER THE PROVISIONS OF [THIS ACT].

5 NEW SECTION. SECTION 7. APPEALS. (1) A PARTY TO A  
 6 MUNICIPAL RATE HEARING MAY APPEAL THE DECISION OF THE  
 7 MUNICIPALITY TO THE DISTRICT COURT IN WHOSE JURISDICTION THE  
 8 MUNICIPALITY LIES.

9 (2) A PERSON MAY APPEAL THE ADOPTION OR APPLICATION OF  
 10 MUNICIPAL UTILITY RULES TO THE DISTRICT COURT IN WHOSE  
 11 JURISDICTION THE MUNICIPALITY LIES.

12 Section 8. Section 69-3-101, MCA, is amended to read:

13 "69-3-101. Meaning of term public utility. ~~(1)~~ Except  
 14 as provided in subsection (2), the ~~the~~ term "public  
 15 utility", within the meaning of this chapter, shall embrace  
 16 every corporation, both public and private, company,  
 17 individual, association of individuals, their lessees,  
 18 trustees, or receivers appointed by any court whatsoever,  
 19 that now or hereafter may own, operate, or control any plant  
 20 or equipment, any part of a plant or equipment, or any water  
 21 right within the state for the production, delivery, or  
 22 furnishing for or to other persons, firms, associations, or  
 23 corporations, private or municipal:

24 ~~(1)~~ (1) heat;

25 ~~(2)~~ (2) street-railway service;

1 ~~(3)~~ (3) light;  
 2 ~~(4)~~ (4) power in any form or by any agency;  
 3 ~~(5)~~ (5) EXCEPT AS PROVIDED IN [SECTIONS 1 THROUGH  
 4 6], water for business, manufacturing, household use, or  
 5 sewerage service, whether within the limits of  
 6 municipalities, towns, and villages or elsewhere;  
 7 ~~(6)~~ (6) telegraph or telephone service.

8 ~~(2) -- A utility owned and regulated by a municipality as~~  
 9 ~~provided in [sections 1 through 6] is not a public utility~~  
 10 ~~within the meaning of this chapter."~~

11 ~~SECTION 9. -- PERIOD -- OF -- EFFECTIVENESS -- THIS -- ACT -- IS~~  
 12 ~~EFFECTIVE JULY 1, 1981 AND REMAINS IN EFFECT UNTIL JULY 1,~~  
 13 ~~1983.~~

14 SECTION 9. EFFECTIVE DATE AND TERMINATION DATE. THIS  
 15 ACT SHALL BECOME EFFECTIVE ON JULY 1, 1981. IT SHALL  
 16 TERMINATE ON JULY 1, 1983.

-End-



SENATE STANDING COMMITTEE REPORT  
(Local Government)

That House Bill No. 765 be amended as follows:

1. Title, line 8.

Following: "MCA"

Insert: ";AND PROVIDING A PERIOD OF EFFECTIVENESS"

2. Page 1, lines 18 and 19.

Following: "raised"

Strike: "more than 15% per year"

Insert: "to yield more than a 12% increase in total annual revenues"

3. Page 1, lines 21 and 22.

Following: "to"

Strike: "pay principal and interest on the bonds or loans"

Insert: "meet the requirements of bond indentures or loan agreements"

4. Page 2, line 7.

Following: "(3)"

Insert: "(a)"

5. Page 2.

Following: line 11

Insert: "(b) The notice must also be mailed at least 7 days and not more than 30 days prior to the hearing to persons served by the utility. The notice shall accompany the bill for services of that utility and must be mailed within the prescribed time period. This notice must contain an estimate of the amount the customer's average monthly bill will increase."

6. Page 3, line 6.

Following: "clerk."

Insert: "A copy of each revised rate schedule shall be filed with the public service commission upon final decision."

7. Page 3, line 19.

Following: "increases"

Strike: "in excess of 15%"

Insert: "that yield total revenues in excess of 12%"

8. Page 3, line 20.

Following: "for"

Insert: "mandated federal and state"

9. Page 3, line 21.

Following: "improvements"

Insert: "for which the increase exceeds amounts necessary to meet the requirements of bond indentures or loan agreements required to finance the local government's share of the mandated improvements"

10. Page 4, line 10.

Following: "boundaries."

Insert: "The rule shall provide that rate increases for comparable classifications and zones outside the municipal boundaries may not exceed those set within the municipal limits under the provisions of [this act]."

NEW SECTION. Section 7. Appeals. (1) A party to a municipal rate hearing may appeal the decision of the municipality to the district court in whose jurisdiction the municipality lies.

(2) A person may appeal the adoption or application of municipal utility rules to the district court in whose jurisdiction the municipality lies."

Renumber: subsequent sections

11. Page 5, line 2.

Following: "(e)"

Insert: "except as provided in [sections 1 through 6],"

12. Page 5, line 6 through line 8.

Strike: these lines in their entirety

13. Page 5.

Following: line 8

Insert: "Section 9. Period of effectiveness. This act is effective July 1, 1981 and remains in effect until July 1, 1983."

March 31, 1981

SENATE COMMITTEE OF THE WHOLE

Proposed amendment to House Bill 765, third reading copy, as follows:

That the following amendment of the Senate Standing Committee on Local Government of March 26, 1981, be amended to read as follows:

14. Page 5.

Following: line 8.

Insert: "Section 9. Effective date and termination date. This act shall become effective on July 1, 1981. It shall terminate on July 1, 1983."

April 20, 1981

GOVERNOR'S PROPOSED AMENDMENTS TO HOUSE BILL NO. 765;  
REFERENCE COPY; AS FOLLOWS:

1. Page 4, Line 7  
Following: "YIELD"  
Insert: "an increase in"
2. Page 5, Lines 13 and 14  
Following: "(±)"  
Strike: "Except as provided in subsection (2), the"
3. Page 5, Line 14  
Following: "the"  
Strike: "~~The~~"  
Insert: "The"

## 1 HOUSE BILL NO. 765

2 INTRODUCED BY DONALDSON, KROPP, SHONTZ, HARPER

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR  
5 MUNICIPAL REGULATION OF MUNICIPALLY OWNED UTILITIES; TO  
6 ESTABLISH MAXIMUM INCREASES ALLOWED; TO REQUIRE REPORTING TO  
7 THE PUBLIC SERVICE COMMISSION AND THE MONTANA CONSUMER  
8 COUNSEL; AND AMENDING SECTION 69-3-101, MCA; AND PROVIDING A  
9 PERIOD OF EFFECTIVENESS."

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

12 NEW SECTION. Section 1. Municipal utilities --  
13 regulation by municipality -- limitation. A municipality has  
14 the power and authority to regulate, establish, and change,  
15 as it considers proper, rates, charges, and classifications  
16 imposed for utility services to its inhabitants and other  
17 persons served by municipal utility systems. Rates, charges,  
18 and classifications shall be reasonable and just and, except  
19 as provided in [section 5], they may not be raised more than  
20 ±5%--per--year TO YIELD MORE THAN A 12% INCREASE IN TOTAL  
21 ANNUAL REVENUES or, in the case of mandated federal and  
22 state capital improvements, the increase may not exceed  
23 amounts necessary to pay ~~principal and interest on the bonds~~  
24 ~~or loans~~ MEET THE REQUIREMENTS OF BOND INDENTURES OR LOAN  
25 AGREEMENTS required to finance the local government's share

1 of the mandated improvements.

2 NEW SECTION. Section 2. Municipal rate hearing  
3 required -- notice. (1) If the governing body of a  
4 municipality considers it advisable to regulate, establish,  
5 or change rates, charges, or classifications imposed on its  
6 customers, it shall order a hearing to be held before it at  
7 a time and place specified.

8 (2) Notice of the hearing shall be published in a  
9 newspaper as provided in 7-1-4127.

10 (3) (A) The notice shall be published three times with  
11 at least 6 days separating each publication. The first  
12 publication may be no more than 28 days prior to the  
13 hearing, and the last publication may be no less than 3 days  
14 prior to the hearing.

15 (B) THE NOTICE MUST ALSO BE MAILED AT LEAST 7 DAYS AND  
16 NOT MORE THAN 30 DAYS PRIOR TO THE HEARING TO PERSONS SERVED  
17 BY THE UTILITY. THE NOTICE SHALL ACCOMPANY THE BILL FOR  
18 SERVICES OF THAT UTILITY AND MUST BE MAILED WITHIN THE  
19 PRESCRIBED TIME PERIOD. THIS NOTICE MUST CONTAIN AN ESTIMATE  
20 OF THE AMOUNT THE CUSTOMER'S AVERAGE MONTHLY BILL WILL  
21 INCREASE.

22 (4) The published notice must contain:

- 23 (a) the date, time, and place of the hearing;  
24 (b) a brief statement of the proposed action; and  
25 (c) the address and telephone number of a person who

1 may be contacted for further information regarding the  
2 hearing.

3 (5) Notice of all hearings shall be mailed first  
4 class, postage prepaid, to the Montana consumer counsel.

5 NEW SECTION. Section 3. Conduct of municipal rate  
6 hearing. (1) At the hearing, all persons, associations,  
7 corporations or companies affected or interested, including  
8 the Montana consumer counsel, may be present and represented  
9 by counsel. The hearing may be continued from time to time  
10 by the governing body of the municipality. At the conclusion  
11 of the hearing, all interested parties shall be allowed to  
12 make such arguments as they may consider proper.

13 (2) Within 30 days after the hearing, the governing  
14 body of the municipality shall issue its decision. The  
15 decision is final 10 days after being filed with the  
16 municipal clerk. A COPY OF EACH REVISED RATE SCHEDULE SHALL  
17 BE FILED WITH THE PUBLIC SERVICE COMMISSION UPON FINAL  
18 DECISION.

19 NEW SECTION. Section 4. Annual report to public  
20 service commission. A municipality regulating its utility  
21 services must make an annual report to the public service  
22 commission and furnish a copy thereof to the Montana  
23 consumer counsel. The report shall set forth the rates and  
24 number of users of each service and classification, all rate  
25 increases, and the total income and expenditures of the

1 utility AS PROVIDED IN 69-3-203. Such information shall be  
2 provided for the current year and the previous year. The  
3 annual report shall be sent to the public service commission  
4 no later than September 30 annually.

5 NEW SECTION. Section 5. Rate increases over maximum.  
6 If a municipal utility requires rate increases in excess of  
7 15% THAT YIELD AN INCREASE IN TOTAL REVENUES IN EXCESS OF  
8 12% in any one year or rate increases for MANDATED FEDERAL  
9 AND STATE capital improvements FOR WHICH THE INCREASE  
10 EXCEEDS AMOUNTS NECESSARY TO MEET THE REQUIREMENTS OF BOND  
11 INDENTURES OR LOAN AGREEMENTS REQUIRED TO FINANCE THE LOCAL  
12 GOVERNMENT'S SHARE OF THE MANDATED IMPROVEMENTS, it must  
13 make application for such increases to the public service  
14 commission.

15 NEW SECTION. Section 6. Rules for operation of  
16 municipal utility. Each municipal utility shall adopt, with  
17 the concurrence of the municipal governing body, rules for  
18 the operation of the utility. The rules shall contain, at a  
19 minimum, those requirements of good practice which can be  
20 normally expected for the operation of a utility. They shall  
21 define or provide for use of meter or flat rate user  
22 charges, the classification of users, applications for  
23 service, and uses of the service. The rules shall outline  
24 the utility's procedure for discontinuance of service and  
25 reestablishment of service as well as the extension of

1 service to users within the municipal boundaries and outside  
2 the municipal boundaries. THE RULE SHALL PROVIDE THAT RATE  
3 INCREASES FOR COMPARABLE CLASSIFICATIONS AND ZONES OUTSIDE  
4 THE MUNICIPAL BOUNDARIES MAY NOT EXCEED THOSE SET WITHIN THE  
5 MUNICIPAL LIMITS UNDER THE PROVISIONS OF [THIS ACT].

6 NEW SECTION. SECTION 7. APPEALS. (1) A PARTY TO A  
7 MUNICIPAL RATE HEARING MAY APPEAL THE DECISION OF THE  
8 MUNICIPALITY TO THE DISTRICT COURT IN WHOSE JURISDICTION THE  
9 MUNICIPALITY LIES.

10 (2) A PERSON MAY APPEAL THE ADOPTION OR APPLICATION OF  
11 MUNICIPAL UTILITY RULES TO THE DISTRICT COURT IN WHOSE  
12 JURISDICTION THE MUNICIPALITY LIES.

13 Section 8. Section 69-3-101, MCA, is amended to read:

14 "69-3-101. Meaning of term public utility. ~~It~~ Except  
15 ~~as provided in subsection (2) the~~ The THE term "public  
16 utility", within the meaning of this chapter, shall embrace  
17 every corporation, both public and private, company,  
18 individual, association of individuals, their lessees,  
19 trustees, or receivers appointed by any court whatsoever,  
20 that now or hereafter may own, operate, or control any plant  
21 or equipment, any part of a plant or equipment, or any water  
22 right within the state for the production, delivery, or  
23 furnishing for or to other persons, firms, associations, or  
24 corporations, private or municipal:

25 ~~It~~ (1) heat;

1 ~~(2)~~ (2) street-railway service;  
2 ~~(3)~~ (3) light;  
3 ~~(4)~~ (4) power in any form or by any agency;  
4 ~~(5)~~ (5) EXCEPT AS PROVIDED IN [SECTIONS 1 THROUGH  
5 6], water for business, manufacturing, household use, or  
6 sewerage service, whether within the limits of  
7 municipalities, towns, and villages or elsewhere;  
8 ~~(6)~~ (6) telegraph or telephone service.

9 ~~(2) -- A utility-owned and regulated by a municipality as~~  
10 ~~provided in [sections 1 through 6] is not a public utility~~  
11 ~~within the meaning of this chapter."~~

12 ~~SECTION 9. -- PERIOD -- OF -- EFFECTIVENESS. -- THIS -- ACT -- IS~~  
13 ~~EFFECTIVE JULY 1, 1981, AND REMAINS IN EFFECT UNTIL JULY 1,~~  
14 ~~1983.~~

15 SECTION 9. EFFECTIVE DATE AND TERMINATION DATE. THIS  
16 ACT SHALL BECOME EFFECTIVE ON JULY 1, 1981. IT SHALL  
17 TERMINATE ON JULY 1, 1983.

-End-

State of Montana  
Office of the Governor  
Helena 59620

TED SCHWINDEN  
GOVERNOR

April 20, 1981

The Honorable Jean A. Turnage  
President of the Senate  
State Capitol  
Helena, Montana 59620

The Honorable Robert L. Marks  
Speaker of the House  
State Capitol  
Helena, Montana 59620

Dear Senator Turnage and Representative Marks:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return House Bill No. 765, "AN ACT TO PROVIDE FOR MUNICIPAL REGULATION OF MUNICIPALLY OWNED UTILITIES; TO ESTABLISH MAXIMUM INCREASES ALLOWED; TO REQUIRE REPORTING TO THE PUBLIC SERVICE COMMISSION AND THE MONTANA CONSUMER COUNSEL; AND AMENDING SECTION 69-3-101, MCA; AND PROVIDING A PERIOD OF EFFECTIVENESS," without my signature and recommend the attached amendments for the following reasons.

The first sentence in Section 5 of H.B. 765 requires clarification regarding the magnitude of rate increases that triggers Public Service Commission involvement. My first proposed amendment provides this clarification.

My second proposed amendment strikes a reference to a subsection which was deleted by an amendment to the bill.

I urge your concurrence in these amendments.

Sincerely,



TED SCHWINDEN  
Governor