

House Bill 771

In The House

February 14, 1981

Introduced and referred
to Committee on Local
Government.

April 23, 1981

Died in Committee.

1 HOUSE BILL NO. 771
 2 INTRODUCED BY Sen. Greg Williams Unintended Bill
 3 Harrold

4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING MUNICIPAL
 5 REGULATION OF PUBLIC UTILITIES OWNED BY MUNICIPALITIES;
 6 REMOVING AUTHORITY OF THE PUBLIC SERVICE COMMISSION OVER
 7 UTILITIES OWNED, OPERATED, AND REGULATED BY MUNICIPALITIES;
 8 AMENDING SECTION 69-3-102, MCA; PROVIDING AN IMMEDIATE
 9 EFFECTIVE DATE."

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

12 NEW SECTION. Section 1. Municipal regulation. A
 13 municipality may regulate, fix, and change rates, charges,
 14 and classifications for utility services to its inhabitants
 15 and other persons served by municipal utility systems.
 16 Rates, charges, and classifications shall be reasonable and
 17 just.

18 NEW SECTION. Section 2. Municipal rate hearing --
 19 notice. (1) If the governing body of a municipality
 20 considers it desirable to fix, change, or regulate rates,
 21 charges, or classifications imposed on its customers, it
 22 shall order a hearing to be held before it at a time and
 23 place specified.

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

1 (3) The notice shall be published four times with at
 2 least 5 days separating publications. The first publication
 3 may be no more than 28 days before the hearing, and the last
 4 publication may be no less than 3 days before the hearing.

5 (4) The published notice must contain:
 6 (a) the date, time, and place of the hearing;
 7 (b) a brief statement of the proposed action; and
 8 (c) the address and telephone number of the person who
 9 can be contacted for more information about the hearing.

10 (5) Notice of each hearing must be mailed, first class
 11 postage prepaid, to the Montana consumer counsel.

12 NEW SECTION. Section 3. Conduct of municipal rate
 13 hearing. (1) All interested persons, associations,
 14 corporations, or companies, including the Montana consumer
 15 counsel, may be present at the hearing and may be
 16 represented by counsel.

17 (2) The municipality shall be represented by an
 18 attorney or by a person of the governing body's choice.

19 (3) The hearing shall be held before the municipal
 20 governing body and is not required to be governed by common
 21 law or statutory rules of evidence.

22 (4) The municipality and all persons specified in
 23 subsection (1) may produce and examine witnesses and
 24 introduce evidence.

25 (5) (a) Any party may compel the attendance of

1 witnesses, and subpoenas requiring attendance shall be
2 issued by the municipal clerk under the seal of the
3 municipality.

4 (b) Subpoenas duces tecum requiring the production of
5 books and papers shall be issued in a like manner upon
6 request.

7 (c) If a person fails to obey a subpoena, the party at
8 whose request the subpoena issued may petition the district
9 court for an order compelling the attendance of the
10 disobedient witness or the production of the books or papers
11 referred to in the subpoena duces tecum.

12 (6) The hearing may be continued from time to time by
13 the municipal governing body.

14 (7) At the conclusion of the hearing, all interested
15 parties must be allowed to make any arguments they consider
16 proper.

17 (8) The municipal governing body shall issue its
18 decision within 30 days after the hearing, and the decision
19 shall be final 10 days after filing with the municipal
20 clerk.

21 NEW SECTION. Section 4. Appeal. (1) The decision may
22 be appealed to the district court of the county in which the
23 municipality is located by any party who appeared at the
24 hearing. An appeal shall be in accordance with the
25 provisions of Title 2, chapter 4, part 7. On any appeal

1 there is presumption in favor of the decision of the
2 municipal governing body.

3 (2) On appeal, the record shall consist of and be
4 limited to:

5 (a) all pleadings, motions, and rulings;

6 (b) all evidence received or considered, including a
7 stenographic record of oral proceedings, which shall be
8 transcribed for the convenience of the district court;

9 (c) a statement of matters officially noticed;

10 (d) questions and offers of proof and objections and
11 rulings thereon; and

12 (e) the decision of the municipal governing body.

13 (3) Within 20 days of the filing of the appeal, the
14 appealing party shall request the municipal governing body
15 to transmit the entire record to the clerk of the district
16 court, and the appealing party shall bear the expense of the
17 transmission, including the cost of the transcription of the
18 stenographic record.

19 NEW SECTION. Section 5. Temporary approval. The
20 municipal governing body may approve a rate increase
21 temporarily pending a hearing on final decision. If the
22 increase is disallowed in the final decision, the municipal
23 governing body shall order a rebate to all customers for the
24 amount collected under the temporary increase retroactive to
25 the date of the temporary approval. An order of a municipal

1 governing body approving or denying a temporary rate
2 increase is an intermediate agency action within the meaning
3 of and subject to 2-4-701.

4 NEW SECTION. Section 6. No authority in public
5 service commission. The public service commission has no
6 power to regulate or supervise the rates of any utility
7 owned, operated, and regulated by a municipality under the
8 provisions of [sections 1 through 5].

9 Section 7. Section 69-3-102, MCA, is amended to read:

10 "69-3-102. Supervision and regulation of public
11 utilities. ~~The Except as provided in [section 6], the~~
12 commission is hereby invested with full power of
13 supervision, regulation, and control of such public
14 utilities, subject to the provisions of this chapter and to
15 the exclusion of the jurisdiction, regulation, and control
16 of such utilities by any municipality, town, or village."

17 Section 8. Effective date. This act is effective on
18 passage and approval.

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