

HOUSE BILL NO. 502

INTRODUCED BY PAVLOVICH, QUILICI

IN THE HOUSE

January 25, 1983	Introduced and referred to Committee on Judiciary.
February 4, 1983	Committee recommend bill do pass as amended. Report adopted.
February 5, 1983	Bill printed and placed on members' desks.
February 7, 1983	Second reading, do pass.
February 8, 1983	Considered correctly engrossed.
February 9, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 10, 1983	Introduced and referred to Committee on Judiciary.
March 8, 1983	Committee recommend bill be concurred in. Report adopted.
March 10, 1983	Second reading, concurred in.
March 12, 1983	Third reading, concurred in. Ayes, 47; Noes, 0.

IN THE HOUSE

March 12, 1983	Returned to House.
March 14, 1983	Sent to enrolling. Reported correctly enrolled.

1 *House of* BILL NO. *502*
2 INTRODUCED BY *Carlton Linder*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE TIME THAT
5 JUDICIAL PROCEEDINGS ARE STAYED UPON TRANSMISSION OF
6 ADDITIONAL EVIDENCE TO THE PUBLIC SERVICE COMMISSION AND
7 ELIMINATING AUTOMATIC TRANSMISSION OF ADDITIONAL EVIDENCE
8 ABSENT JUDICIAL RULING; AMENDING SECTION 69-3-404, MCA."
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. Section 69-3-404, MCA, is amended to read:
12 "69-3-404. Review confined to record -- exceptions.
13 (1) Except as otherwise provided in this section, review
14 shall be conducted by the court without a jury and shall be
15 confined to the record.
16 (2) In cases of alleged irregularities in procedure
17 before the agency not shown in the record, evidence thereof
18 may be taken in the court. The court, upon request, shall
19 hear oral argument and receive written briefs.
20 (3) If, before the date set for hearing, application
21 is made to the court for leave to present additional
22 evidence and it is shown to the satisfaction of the court
23 that the additional evidence is material and that there were
24 good reasons for failure to present it in the proceeding
25 before the agency, the court, before proceeding to render

1 judgment may transmit a copy of such evidence to the
2 commission and, if such transmission is made, shall stay
3 further proceedings in said action for ~~±5~~ 35 days from the
4 date of such transmission. The court shall, within 7 days
5 after the introduction of such evidence, decide whether or
6 not to transmit a copy of such evidence to the commission.
7 The court is considered to have ruled that the evidence ~~must~~
8 need not be transmitted to the commission unless it orders
9 otherwise within such 7-day period. Upon receipt of such
10 evidence, the commission shall consider the same and may
11 modify, amend, or rescind its order relating to such rate,
12 fare, charge, classification, joint rate, regulation,
13 practice, or service complained of in said action and shall
14 report its action thereon to said court within ~~±0~~ 30 days
15 from the receipt of such evidence.
16 (4) If the commission ~~shall rescind~~ rescinds its order
17 complained of, the action shall be dismissed. If it ~~shall~~
18 ~~alter~~ alters, modify modifies, or amend amends the same,
19 such altered, modified, or amended order shall take the
20 place of the original order complained of and judgment shall
21 be rendered thereon as though made by the commission in the
22 first instance. If the original order ~~shall not be~~ is not
23 rescinded or changed by the commission, judgment shall be
24 rendered upon such original order."

-End-

-2- INTRODUCED BILL

AB502

Approved by Committee
on Judiciary

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A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE TIME THAT JUDICIAL PROCEEDINGS ARE STAYED UPON TRANSMISSION OF ADDITIONAL EVIDENCE TO THE PUBLIC SERVICE COMMISSION AND ELIMINATING AUTOMATIC TRANSMISSION OF ADDITIONAL EVIDENCE ABSENT JUDICIAL RULING; AMENDING SECTION 69-3-404, MCA."

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(3) If, before the date set for hearing, application is made to the court for leave to present additional evidence and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court, before proceeding to render

judgment may transmit a copy of such evidence to the commission and, if such transmission is made, shall stay further proceedings in said action for ~~15~~ 35 days from the date of such transmission. The court shall, within ~~7~~ 14 days after the introduction of such evidence, decide whether or not to transmit a copy of such evidence to the commission. The court is considered to have ruled that the evidence ~~must~~ need not be transmitted to the commission unless it orders otherwise within such ~~7-day~~ 14-DAY period. Upon receipt of such evidence, the commission shall consider the same and may modify, amend, or rescind its order relating to such rate, fare, charge, classification, joint rate, regulation, practice, or service complained of in said action and shall report its action thereon to said court within ~~10~~ 30 days from the receipt of such evidence.

(4) If the commission ~~shall-rescind~~ rescinds its order complained of, the action shall be dismissed. If it ~~shall~~ alter ~~alters~~, modify ~~modifies~~, or amend ~~amends~~ the same, such altered, modified, or amended order shall take the place of the original order complained of and judgment shall be rendered thereon as though made by the commission in the first instance. If the original order ~~shall-not-be~~ is not rescinded or changed by the commission, judgment shall be rendered upon such original order."

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