

SENATE BILL NO. 234

Introduced: 01/20/83

Referred to Committee on Local Government: 01/20/83

Hearing: 1/27/83

Report: 02/03/83, Do Not Pass. Report Adopted.
Bill Killed.

1 *Senate* BILL NO. *234*
 2 INTRODUCED BY *Markus E. Bailey, Dillinger Van Chalken*
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROCESS TO
 5 ALTER OR ABANDON A COUNTY ROAD; REQUIRING A PUBLIC HEARING
 6 WHEN ALTERATION OR ABANDONMENT OF A PUBLIC ROAD IS PROPOSED;
 7 AMENDING SECTIONS 7-14-2601, 7-14-2603, 7-14-2617, AND
 8 76-3-305, MCA; AND REPEALING SECTION 7-14-2616, MCA."
 9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 Section 1. Section 7-14-2601, MCA, is amended to read:
 12 "7-14-2601. Petition to establish, alter, or abandon a
 13 county road. (1) Any 10, or a majority, of the freeholders
 14 of a road district taxable therein for road purposes may
 15 petition the board in writing to open, establish, construct,
 16 change, abandon, or discontinue any county road in the
 17 district.
 18 (2) When the road petitioned for is on the dividing
 19 line between two counties, the same procedure must be
 20 followed except that a copy of the petition must be
 21 presented to each board. The two boards shall act jointly.
 22 (3) As used in this part, unless the context requires
 23 otherwise:
 24 (a) "board" means the board of county commissioners;
 25 (b) "abandonment" means cessation of use of

1 right-of-way (easement) or activity thereon with no
 2 intention to reclaim or use again and is sometimes called
 3 "vacation";
 4 (c) "county road" means any public road, street, or
 5 alley located within the county and outside the boundaries
 6 of an incorporated municipality, officially recognized by
 7 the county as a county road or which has become a county
 8 road by prescription, but which is not a federal-aid highway
 9 as defined in 60-1-103."
 10 Section 2. Section 7-14-2603, MCA, is amended to read:
 11 "7-14-2603. Investigation of request concerning road
 12 — decision — public hearing. (1) At its next regular or
 13 special meeting or in any case at a date within 30 days
 14 after filing of any petition, the board shall cause an
 15 investigation to be made of the feasibility, desirability,
 16 and cost of granting the prayer of the petition. The
 17 investigation shall be sufficient to properly determine the
 18 merits or demerits of the petition and shall include a
 19 public hearing.
 20 (2) No more than one member of the board and the
 21 county surveyor shall make the investigation.
 22 (3) At least 1 week before acting on the petition,
 23 notice of a public hearing shall be published by the board
 24 in a newspaper of general circulation within the county or
 25 posted in three public places stating:

1 (a) the date, time, and place of the hearing; and
 2 (b) the name of the road, street, or alley under
 3 investigation.

4 ~~(3)~~(4) After considering the testimony given at the
 5 public hearing, the petition, and the results of the
 6 investigation, the board shall make an entry of its decision
 7 on the minutes."

8 Section 3. Section 7-14-2617, MCA, is amended to read:

9 "7-14-2617. Discontinuance of street not to affect
 10 utility easements. ~~The No vacation, abandonment, or other~~
 11 ~~alteration~~ authorized by ~~7-14-2616~~ this part shall not
 12 affect the right of any public utility to continue to
 13 maintain its plant and equipment in any such county road,
 14 street, or alley."

15 Section 4. Section 76-3-305, MCA, is amended to read:

16 "76-3-305. Vacation of plats — utility easements. (1)
 17 Any plat prepared and recorded as herein provided may be
 18 vacated either in whole or in part as provided by 7-5-2501,
 19 7-5-2502, ~~subsections (1) and (2) of 7-14-2616,~~ 7-14-2617,
 20 subsections (1) and (2) of 7-14-4114, and 7-14-4115, and
 21 upon such vacation the title to the streets and alleys of
 22 such vacated portions to the center thereof shall revert to
 23 the owners of the properties within the platted area
 24 adjacent to such vacated portions.

25 (2) However, when any poleline, pipeline, or any other

1 public or private facility is located in a vacated street or
 2 alley at the time of the reversion of the title thereto, the
 3 owner of said public or private utility facility shall have
 4 an easement over the vacated land to continue the operation
 5 and maintenance of the public utility facility."

6 ~~NEW SECTION.~~ Section 5. Repealer. Section 7-14-2616,
 7 MCA, is repealed.

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