

HOUSE BILL NO. 728

2/08 Introduced
2/08 Referred to Business & Labor
2/18 Hearing
2/20 Adverse Committee Report
2/21 Bill Killed

House BILL NO. 728

INTRODUCED BY *Fritz Nanko* *Frank Canyon* *Conroy M. Hart*
Robert G. Anderson *George G. Gehrke*

BY REQUEST OF THE PUBLIC SERVICE COMMISSION

FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT
CORPORATE REORGANIZATION AFFECTING PUBLIC UTILITIES BE

SUBJECT TO APPROVAL BY THE PUBLIC SERVICE COMMISSION; AND
PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Definitions. As used in [section 2], the following definitions apply:

(1) "Reorganization" means any creation, organization, extension, consolidation, merger, transfer of ownership or control, liquidation, dissolution or termination, direct or indirect, in whole or in part, of utility-owned interests accomplished by the issue, sale, acquisition, lease, exchange, distribution, or transfer of voting securities or property, or other similar transaction. The commission may by rule determine what other public utility actions constitute a reorganization to which the provisions of [section 2] apply. Such rules may be promulgated only if the commission determines that the transaction requires ratepayer interests to be protected by application of the provisions in [section 2].

(2) "Voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company or any proprietary or other interest serving the same purpose.

Section 2. Reorganizations subject to commission approval. (1) Unless exempted by rule or order of the commission, no reorganization may take place without the approval of the commission. No reorganization may be approved by the commission unless it is established by the applicant for approval that the reorganization is consistent with the interests of the utility's ratepayers and investors. The commission shall rule upon all requests for approval of a reorganization within 180 days of the filing of the request for approval. If the commission considers that the necessary investigation cannot be concluded within 180 days, it may extend the period for a further period of no more than 120 days. In granting its approval, the commission shall impose such terms, conditions, or requirements as, in its judgment, are necessary to protect the interests of ratepayers. These conditions must include provisions which assure that:

- (a) the commission has reasonable access to books, records, documents, and other information relating to the utility or its affiliated interests;
- (b) the commission has all reasonable powers to



1 detect, identify and review all transactions between a
2 utility and any other business in which it is engaged
3 directly or indirectly;

4 (c) the utility's ability to attract capital on
5 reasonable terms, including the maintenance of a reasonable
6 capital structure, is not impaired;

7 (d) the ability of the utility to provide safe,
8 reasonable, and adequate service is not impaired;

9 (e) the commission's regulatory authority under
10 applicable laws, principles, and rules governing the
11 regulation of public utilities is not impaired;

12 (f) the utility's credit is not impaired or adversely
13 affected;

14 (g) reasonable limitations be imposed upon the total
15 level of investment in nonutility businesses, except that
16 the commission does not have the authority to approve or
17 disapprove the nature of the nonutility business;

18 (h) the commission has reasonable remedial power,
19 including but not limited to the power, after notice to the
20 utility and all affiliated entities of the issues to be
21 determined and after the opportunity for an adjudicatory
22 proceeding, to order divestiture in the event that
23 divestiture is necessary to protect the interests of the
24 utility, ratepayers, or investors (a divestiture order must
25 provide a reasonable period within which the divestiture

1 must be completed); and

2 (i) neither ratepayers nor investors are adversely
3 affected by any reorganization.

4 (2) The commission may by rule exempt classes of
5 reorganizations from the requirements of this section.

6 Section 3. Codification instruction. Sections 1 and 2
7 are intended to be codified as an integral part of Title 69,
8 chapter 3.

9 Section 4. Effective date. This act is effective on
10 passage and approval.

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