SENATE BILL 334

Introduced by Tveit, et al.

2/03	Introduced
2/03	Referred to Highways & Transportation
2/11	Hearing
	Died in Committee

1   *Smale* BILL NO. *334*

2   INTRODUCED BY *Treit Stepple Underberg AKLESTAD*

3   *Jakins Brady (by NATH Adams* ...

4   A BILL FOR AN ACT ENTITLED: "AN ACT ASSURING LEASEHOLDERS

    Smith Caster Nelson Bengtom Noble

5   RIGHT OF FIRST REFUSAL IN SALE OF CERTAIN RAILROAD

6   RIGHT-OF-WAY PROPERTY."

7

8   STATEMENT OF INTENT

9   A statement of intent is required for this bill because

10   [section 3] gives the public service commission authority to

11   establish by rule guidelines for resolving disputes. The

12   legislature intends that in making rules the commission

13   conform to existing statutes and to its own rules and that

14   it establish procedures for expeditious resolution of

15   disputes. The commission shall provide in the rules for the

16   use of independent appraisers.

17

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

19   NEW SECTION. **Section 1.** Definitions. As used in [this

20   act]:

21   (1) "Fair market value" means the price negotiated

22   between the parties under [section 2] or the market value of

23   the property minus the value of any leasehold improvements,

24   as determined by independent appraisers.

25   (2) "Leaseholder" means a person who holds a lease,

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1   license, or permit with respect to property within a

2   right-of-way and who has erected leasehold improvements on

3   the property with a total fair market value of $2,500 or

4   more.

5   (3) "Railroad interest" means:

6   (a) a railroad corporation or its trustee or successor

7   in interest;

8   (b) a railroad corporation that is in proceedings for

9   bankruptcy under federal law; or

10   (c) a nonrailroad holding corporation that owns a

11   controlling interest in a railroad.

12   (4) "Right-of-way" means real property, including any

13   interest in real property, that is or has been owned by a

14   railroad company as the site or is adjacent to the site of

15   an existing or former rail line.

16   NEW SECTION. **Section 2.** Right of first refusal. A

17   railroad interest that is in bankruptcy proceedings may not

18   sell or offer for sale an interest in real property that is

19   within the right-of-way and a railroad interest that is

20   abandoning a railroad line may not sell or offer for sale an

21   interest within the right-of-way to be abandoned unless it

22   first extends a written offer to sell that interest at fair

23   market value to each person who is a leaseholder with

24   respect to the property. The leaseholder must respond to the

25   offer within 60 days of receipt of the notice, and the

-2-   INTRODUCED BILL

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1 railroad interest must negotiate in good faith with an

2 interested leaseholder for a period of 90 days following the

3 leaseholder's response. After the 90-day negotiation

4 period, either party may file a notice of dispute with the

5 commission under [section 3]. The property may not be sold

6 to a party other than the leaseholder during the response

7 and negotiation periods or while a dispute is pending before

8 the commission. This section does not apply to a sale of an

9 entire operating railroad line by one operating railroad to

10 another for the purpose of operating a railroad.

11 NEW SECTION. **Section 3.** Commission to resolve

12 disputes. (1) A railroad interest or leaseholder may apply

13 to the commission to resolve a dispute concerning fair

14 market value or other terms arising from negotiations under

15 [section 2]. The commission shall adopt rules containing

16 guidelines to implement [section 2] and this section.

17 (2) The commission's decision may be reviewed in the

18 district court in the county where the property is located.

19 The scope of judicial review is limited to determining if

20 substantial evidence exists to support the commission's

21 decision.

22 NEW SECTION. **Section 4.** Codification instruction.

23 [Sections 1 through 3] are intended to be codified as an

24 integral part of Title 69, chapter 14, and the provisions of

25 Title 69, chapter 14, apply to [sections 1 through 3].

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