

House BILL NO. 364

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: AN ACT ALLOWING A RAILROAD TO CONDUCT A SERVICE SYSTEM

TEST BEFORE MODIFYING OR CLOSING A FACILITY; AND AMENDING SECTION 69-14-202, MCA.

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

Section 1. Section 69-14-202, MCA, is amended to read:

"69-14-202. Duty to furnish shipping and passenger facilities -- service system test. (1) Every A person, corporation, or association operating a railroad in the state on January 1, 1987, or a successor thereto, shall maintain and staff facilities for shipment and delivery of freight and shall ship and deliver freight and accommodate passengers in such those facilities as were maintained and staffed on January 1, 1987.

(2) However, if a person, corporation, or association operating a railroad demonstrates to the public service commission, following an opportunity for a public hearing in the community where the facility is situated, that a facility is not required for public convenience and necessity, the commission shall authorize the closure, consolidation, or centralization of the facility. In determining public convenience and necessity, the commission shall, prior to making its decision, weigh and balance the facts and testimony presented at the hearing, including the facts and testimony presented by the general public, the existing burdens on the railroad, the burdens placed upon the shipping and general public if the application is granted, and any other factors that the commission considers significant to provide adequate rail service.

(3)(a) A person, corporation, or association operating a railroad that desires to test a service system before modifying or discontinuing a facility shall file a formal application with the commission not less than 60 days prior to the requested effective date of the service system test period.

(b) The applicant shall notify in writing all shippers who have received service in the previous 3 years at the facility affected by the application. The commission must be furnished with the names and addresses of the shippers not less than 45 days prior to the requested effective date of the service system test period.

(c) If 15 days prior to the requested effective date of the service system test period the commission

1 has not received written protests from 50% or more of the notified shippers or from shippers generating
2 50% or more of the total traffic volume at the facility, the commission shall authorize a test period of 90
3 days. The agent at the facility is required to remain in place during the test period.

4 (d) A service system test period authorized under this section must include the 2 continuous
5 months of the year in the 2 years preceding the date of the application for the test period, as determined
6 by the commission, in which there were the greatest number of cars shipped and received at the facility.
7 The determination by the commission must be made within 15 days of the date of application.

8 (e)(i) If within 30 days before the end of the service system test period less than 50% of the
9 notified shippers or shippers generating less than 50% of the total traffic volume at the facility file written
10 service complaints with the commission, the commission shall grant authority for the applicant to modify
11 or discontinue service at the facility.

12 (ii) If within 30 days before the end of the service system test period the commission receives
13 written service complaints from more than 50% of the notified shippers or from shippers generating more
14 than 50% of the total traffic volume at the facility, the commission shall hold a hearing on the application
15 in accordance with the Montana Administrative Procedure Act. The service system being tested may be
16 continued by the applicant until the final decision is entered on the commission order."

17 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0364, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill allowing a railroad to conduct a service system test before modifying or closing a facility.

ASSUMPTIONS:

1. Some hearings before modifying or closing a facility may not be required. However, any reduction in hearing costs may be offset by increased notice costs.
2. The Public Service Commission can not estimate any fiscal impact.

FISCAL IMPACT:

No known fiscal impact to the Public Service Commission.

TECHNICAL NOTES: Section 1 (2), lines 19 and 20, requires the Public Service Commission to weigh and balance the facts and testimony presented at the hearing, including the facts and testimony presented by the general public. Section 1 (3) does not allow for the public to request a hearing and a hearing would not be held unless the shipper complaint criteria is met. These two provisions of the bill may be in direct conflict.

Dave Lewis 2-3-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

NORM MILLS, PRIMARY SPONSOR DATE

Fiscal Note for HB0364, as introduced

HB 364

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House BILL NO. 364

INTRODUCED BY

Don Miller, Marcus Johnson, Knox Tate, Sogely, Grathell, Neutel, Benben, ORR, Stovall, Fash, Heaton, Pink

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House BILL NO. 364

INTRODUCED BY

Don Miller, Mearns, Wiseman, Knox, Smith, Sogoh, Stratford, Neutel, Jekbein, ORR, Stovall, Foster, Kearon, Pink, Kitting

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Forbes, Beveland, Hoff, Ohs, Kaney, Wats

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