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SB BILL NO. 189

Bivno-H

INTRODUCED BY John Knox Holden James John  
Christiansen etc Michael Mc Clair By Truman

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE TERRITORIAL INTEGRITY LAWS FOR  
ELECTRICAL SUPPLIERS; AMENDING SECTIONS 69-5-101, 69-5-102, 69-5-103, 69-5-104, 69-5-105,  
69-5-107, 69-5-108, 69-5-110, AND 69-5-111, MCA; AND REPEALING SECTIONS 69-5-106 AND  
69-5-109, MCA."

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

Section 1. Section 69-5-101, MCA, is amended to read:

"69-5-101. Short title. This part shall be known and may be cited as the "Territorial Integrity Act  
of 1971"."

Section 2. Section 69-5-102, MCA, is amended to read:

"69-5-102. Definitions. When used in this part, the following definitions apply:

(1) "~~Commercial premises~~" ~~means the premises where the business of selling, warehousing, or~~  
~~distributing a commodity or other business activity is carried on or professional or other services are~~  
~~rendered.~~

(2) "~~Electric cooperative~~" ~~means a rural electric cooperative organized under Title 35, chapter 18,~~  
~~or a foreign corporation admitted thereunder to do business in Montana.~~ "Agreement" means a written  
agreement between two or more electric facility providers that identifies the geographical area to be served  
by each electric facility provider that is a party to the agreement and any terms and conditions pertinent  
to the agreement.

(2) "Commission" means the public service commission provided for in 2-15-2602.

(3) "~~Electric supplier~~" "Electric facility provider" means any electrical utility and any electric  
cooperative that provide one or more electric service facilities to the public.

(4) "~~Electric utility~~" ~~means a person, firm, or corporation other than an electric cooperative which~~  
~~furnishes electrical service to the public.~~ "Electric service facilities" means any distribution or transmission  
system necessary to bring electric power to the premises.

1           ~~(5)~~ "Industrial premises" means the premises where an industrial activity is carried on, including  
 2 but not limited to the operation of factories, mills, machine shops, mines, oil wells, refineries, pumping,  
 3 cleaning and dyeing works, creameries, canneries, stockyards, feedlots, military installations, or other  
 4 extractive, fabricating, or processing activities.

5           ~~(6)~~(5) "Line" means any electric conductor operating at a nominal voltage level of 34,500 volts or  
 6 less, measured phase-to-phase.

7           ~~(7)~~(6) "Premises" means a building, residence, structure, or facility to which ~~electricity is being or~~  
 8 ~~is to be furnished~~ electric service facilities are provided or are to be installed; provided, that however, two  
 9 or more buildings, structures, or facilities ~~which that~~ are located on one tract or contiguous tracts of land  
 10 and are ~~utilized~~ used by one electric consumer for farming, business, commercial, industrial, institutional,  
 11 governmental, or trailer court purposes ~~shall must~~ together constitute one premises, except that any ~~such~~  
 12 building, structure, or facility, other than a trailer court, ~~shall may~~ not, together with any other building,  
 13 structure, or facility, constitute one premises if the electric service to it is separately metered and the  
 14 charges for ~~such the~~ service are calculated independently of charges for service to any other building,  
 15 structure, or facility."  
 16

17           **Section 3.** Section 69-5-103, MCA, is amended to read:

18           "**69-5-103. Territorial integrity of certain municipalities and electric suppliers facility providers in**  
 19 **outlying areas.** Electric ~~suppliers~~ facility providers ~~shall~~ have rights and ~~be~~ are subject to restrictions, as  
 20 provided in 69-5-104, ~~through~~ 69-5-105, and 69-5-107, with respect to electric service facilities in:

21           (1) all areas outside the boundaries of any incorporated or unincorporated city, town, village, or  
 22 borough having a population in excess of 3,500 persons ~~on or after March 17, 1939;~~ and

23           (2) every incorporated municipality in which 95% or more of the premises are ~~served~~ provided  
 24 electric service facilities by an ~~electric cooperative~~ electric facility provider on ~~February 1, 1971~~ [the  
 25 effective date of this act]."  
 26

27           **Section 4.** Section 69-5-104, MCA, is amended to read:

28           "**69-5-104. Continuation of electric service facilities to existing consumers.** Every electric ~~supplier~~  
 29 facility provider ~~shall have~~ has the right to ~~serve~~ provide electric service facilities to all premises being  
 30 served by it or to which any of its facilities are attached on ~~February 1, 1971~~ [the effective date of this

1 act."

2

3 **Section 5.** Section 69-5-105, MCA, is amended to read:

4 **"69-5-105. Service Electric service facilities to new consumers.** (1) ~~Subject to 69-5-106, the~~ The  
5 electric supplier facility provider having a line nearest the premises, as measured in accordance with  
6 subsection (2), shall ~~serve~~ provide electric service facilities to the premises initially requiring service after  
7 ~~February 1, 1974~~ [the effective date of this act].

8 (2) All measurements under this part ~~shall~~ must be made on the shortest straight line ~~which~~ that  
9 can be drawn from the conductor nearest the premises to the nearest permanent portion of the premises.  
10 Construction power for premises to be constructed ~~shall~~ must be ~~supplied~~ provided by the electric ~~supplier~~  
11 facility provider having the right to ~~serve~~ provide electric service facilities to the completed premises."

12

13 **Section 6.** Section 69-5-107, MCA, is amended to read:

14 **"69-5-107. Service Electric service facilities to property owned by electric supplier facility**  
15 provider. ~~Nothing in The provisions of 69-5-103 through 69-5-106 shall~~ 69-5-105 may not restrict the right  
16 of an electric ~~supplier~~ facility provider to furnish electric service facilities to any property owned by the  
17 electric ~~supplier~~ facility provider."

18

19 **Section 7.** Section 69-5-108, MCA, is amended to read:

20 **"69-5-108. Agreements between electric suppliers facility providers as to service areas.**  
21 Notwithstanding the provisions of 69-5-103 through ~~69-5-109~~ 69-5-105, 69-5-107, and 69-5-108, an any  
22 electric supplier facility provider may ~~furnish~~ provide electric service facilities to any consumer at ~~any a~~  
23 premises being served to which electric service facilities are being provided by another other electric  
24 supplier facility providers upon written agreement ~~of~~ with the affected electric ~~suppliers~~ facility providers  
25 or at a premises ~~that~~ to which another electric ~~supplier~~ facility provider has the right to ~~serve~~ provide  
26 electric service facilities pursuant to this part, upon entry into a written agreement ~~of the~~ between the  
27 affected electric suppliers facility providers, subject to the approval of the commission."

28

29 **Section 8.** Section 69-5-110, MCA, is amended to read:

30 **"69-5-110. Jurisdiction of district courts over disputes.** The district courts of the county or

1 counties within which the premises or lines involved in any dispute are located ~~shall~~ have jurisdiction under  
 2 this part over all electric ~~suppliers~~ facility providers subject to ~~the provisions thereof~~ this part."

3  
 4 **Section 9.** Section 69-5-111, MCA, is amended to read:

5 "**69-5-111. Judicial remedies.** (1) Whenever ~~it shall appear that any~~ an electric ~~supplier~~ facility  
 6 provider is failing or omitting or about to fail or omit to do anything required of it by this part or is doing  
 7 or is about to do anything or to permit anything to be done contrary to or in violation of this part, ~~any~~ the  
 8 electric ~~supplier~~ facility provider affected ~~thereby shall have~~ has the right to file a complaint in the district  
 9 court briefly setting forth the acts or omissions complained of and requesting an injunction.

10 (2) If an affidavit showing that grounds exist ~~therefor~~ that an electric facility provider is in violation  
 11 of this part is filed with the complaint, a temporary restraining order ~~shall~~ must be issued without notice.  
 12 A copy of the temporary restraining order, complaint, and affidavit ~~shall~~ must be served upon the  
 13 defendant, together with an order to show cause why the temporary restraining order should not be made  
 14 permanent, within 5 days after issuance of the temporary restraining order. The hearing on the order to  
 15 show cause must be held at a date specified ~~therein in the order~~, which ~~shall~~ may not be more than 10 days  
 16 after service ~~thereof of the order~~ and ~~shall~~ must take precedence over all matters pending before the district  
 17 court. A judgment making the injunction permanent or dissolving the temporary restraining order ~~theretofore~~  
 18 that was issued and dismissing the complaint must be made not later than 10 days after the hearing on the  
 19 order to show cause.

20 (3) Any party aggrieved by the order may appeal to the supreme court of Montana by filing a notice  
 21 of appeal in the district court within 20 days from entry of the order. The appeal must be perfected within  
 22 20 days ~~thereafter~~ after filing the notice of appeal and ~~shall~~ must take precedence over all matters pending  
 23 before the supreme court of Montana."

24  
 25 **NEW SECTION. Section 10. Repealer.** Sections 69-5-106 and 69-5-109, MCA, are repealed.

26 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0189, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

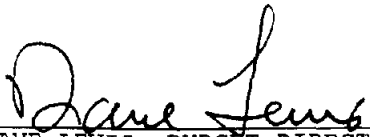
An act generally revising the territorial integrity laws for electrical suppliers.

ASSUMPTIONS:

1. The Department of Public Service Regulation can accomplish the additional duties prescribed in Senate Bill 189 with current staff and budget.

FISCAL IMPACT:

There is no fiscal impact to the state.

 1-27-97

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

 1/28/97

REINY JABS, PRIMARY SPONSOR      DATE

Fiscal Note for SB0189, as introduced

**SB 189**