

SENATE BILL NO. 274

INTRODUCED BY D. ZOLNIKOV

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MAJOR FACILITY SITING DECISION REQUIREMENTS; AMENDING SECTION 75-20-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 75-20-301, MCA, is amended to read:

"75-20-301. Decision of department – findings necessary for certification. (1) Within 30 days after issuance of the report pursuant to 75-20-216 for facilities defined in 75-20-104(10)(a) and (10)(b), the department shall approve a facility as proposed or as modified or an alternative to a proposed facility if the department finds and determines:

- (a) the basis of the need for the facility;
- (b) the nature of the probable environmental impact;
- (c) that the facility minimizes adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives;
- (d) in the case of an electric, gas, or liquid transmission line or aqueduct:
 - (i) what part, if any, of the line or aqueduct will be located underground;
 - (ii) that the facility is consistent with regional plans for expansion of the appropriate grid of the utility systems serving the state and interconnected utility systems; and
 - (iii) that the facility will serve the interests of utility system economy and reliability;
- (e) that the location of the facility as proposed conforms to applicable state and local laws and regulations, except that the department may refuse to apply any local law or regulation if it finds that, as applied to the proposed facility, the law or regulation is unreasonably restrictive in view of the existing technology, of factors of cost or economics, or of the needs of consumers, whether located inside or outside the directly affected government subdivisions;

1 (f) that the facility will serve the public interest, ~~convenience, and necessity~~;

2 (g) that the ~~department or board has issued~~ applicant will obtain any necessary air or water quality
3 decision, opinion, order, certification, or permit as required by 75-20-216(3) prior to construction; and

4 (h) that the use of public lands or federally designated energy corridors for location of a facility
5 defined in 75-20-104(10)(a) or (10)(b) was evaluated and public lands or federally designated energy corridors
6 for that facility were selected whenever ~~their use was compatible with:~~ determined practicable by both the
7 applicant and the department.

8 ~~(i) the requirements of subsections (1)(a) through (1)(g); and~~

9 ~~(ii) transmission line reliability criteria established by transmission reliability agencies for a facility~~
10 ~~defined in 75-20-104(10)(a).~~

11 (2) In determining that the facility will serve the public interest, ~~convenience, and necessity~~ under
12 subsection (1)(f), the department shall consider:

13 (a) the items listed in subsections (1)(a) and (1)(b);

14 (b) the benefits to the applicant and the state resulting from the proposed facility;

15 (c) the effects of the economic activity resulting from the proposed facility;

16 (d) the effects of the proposed facility on the public health, welfare, and safety;

17 (e) any other factors that it considers relevant.

18 (3) Within 30 days after issuance of the report pursuant to 75-20-216 for a facility defined in 75-20-
19 104(10)(c), the department shall approve a facility as proposed or as modified or an alternative to a proposed
20 facility if the department finds and determines:

21 (a) that the facility or alternative incorporates all reasonable, cost-effective mitigation of significant
22 environmental impacts; and

23 (b) that unmitigated impacts, including those that cannot be reasonably quantified or valued in
24 monetary terms, will not result in:

25 (i) a violation of a law or standard that protects the environment; or

26 (ii) a violation of a law or standard that protects the public health and safety.

27 (4) For facilities defined in 75-20-104, if the department cannot make the findings required in this
28 section, it shall deny the certificate."

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2 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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