

HOUSE BILL NO. 198

INTRODUCED BY K. PETERSON, HOWARD, HOLLANDSWORTH, BERRY, ERICKSON, MCGILLVRAY,
 FITZPATRICK, REICHNER, DRISCOLL, O'HARA, BELCOURT, MEHLHOFF, C. SMITH, FACEY, KNOX,
 BUTTREY, F. SMITH

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING A PUBLIC UTILITY'S POWER OF EMINENT DOMAIN;
 CLARIFYING THAT A PERSON ISSUED A CERTIFICATE UNDER THE MAJOR FACILITY SITING ACT HAS
 THE POWER OF EMINENT DOMAIN; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A
 RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. Section 1. Power of eminent domain. A public utility as defined in 69-3-101, ~~its affiliates, and its subsidiaries~~ may acquire by eminent domain, ~~as provided in Title 70, chapter 30,~~ any interest in property, AS PROVIDED IN TITLE 70, CHAPTER 30, for a public use authorized by law ~~in the exercise of its duties as a utility pursuant to Title 69 and in meeting state and federal obligations to provide service~~ TO PROVIDE SERVICE TO ITS CUSTOMERS OR TO PROVIDE OTHER SERVICES IN WHICH THE COSTS FOR THOSE SERVICES ARE BORNE BY THE UTILITY CUSTOMERS RECEIVING THE BENEFIT OF THE SERVICES THE CUSTOMERS OF ITS REGULATED SERVICE.

NEW SECTION. Section 2. Power to exercise eminent domain. (1) A person issued a certificate pursuant to this chapter may acquire by eminent domain, ~~as provided in Title 70, chapter 30,~~ any interest in property, AS PROVIDED IN TITLE 70, CHAPTER 30, for a public use authorized by law to construct a facility in accordance with the certificate.

~~(2) The issuance of a certificate in accordance with this chapter conclusively establishes that a taking is a necessary public use needed to commence to construct the facility in accordance with the certificate and Title 70, chapter 30.~~

NEW SECTION. Section 3. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 69, chapter 3, part 1, and the provisions of Title 69, chapter 3, part 1, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 75, chapter 20, part 1, and the

1 provisions of Title 75, chapter 20, part 1, apply to [section 2].

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3 NEW SECTION. SECTION 4. CONTINGENT VOIDNESS. IF A REPEAL OF THE PROVISIONS OF TITLE 75, CHAPTER
4 1, PARTS 1 THROUGH 3, OR A REPEAL OF THE PROVISIONS OF TITLE 75, CHAPTER 20, PARTS 1 THROUGH 4, IS PASSED
5 AND APPROVED DURING THE 62ND LEGISLATIVE SESSION, THEN [THIS ACT] IS VOID.

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7 NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

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9 NEW SECTION. Section 6. Retroactive applicability. [Section 2] applies retroactively, within the
10 meaning of 1-2-109, to certificates issued after September 30, 2008.

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