



**House
Legislative
Analysis
Section**

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AMEND PSC APPELLATE PROCESS

House Bills 4192-4195 as introduced **RECEIVED**
House Bill 4196 with committee amendment

Sponsor: Rep. H. Lynn Jondahl

APR 08 1987

Senate Bills 69-72 as passed by the Senate **Michigan State Law Library**

Sponsor: Sen. John J. H. Schwarz, M. D.

First Analysis (3-19-87) Floor Copy

House Committee: Public Utilities

Senate Committee: Energy

H.B. 4192 et al (3-19-87)

THE APPARENT PROBLEM:

In December of 1986, the legislature passed a bill (House Bill 5099) to change the Public Service Commission (PSC) appellate process specified in the common carrier (or "Railroad") act. Public Act 312 of 1986 authorized all appeals of Public Service Commission (PSC) orders (except those concerning water utilities and existing commission rules, tariffs, or rate schedules) to be reviewed directly by the Court of Appeals and not by the Ingham County Circuit Court, as previously had been the case. An accompanying set of bills that would have completed this revision of the PSC appeals process in all the major areas of PSC regulation (electricity, natural gas, telecommunications, and motor carriers) also had been introduced, but did not pass both houses of the legislature.

THE CONTENT OF THE BILLS:

The bills would amend a number of statutes to bring them into conformance with the changes in PSC appeals procedures implemented by Public Act 312 of 1986.

House Bills 4192 to 4195 and Senate Bills 69 to 72 would amend statutes governing electric utilities (HB 4192, MCL 460.557), motor carriers (HB 4193, MCL 479.20), public utilities securities (HB 4194, MCL 460.301), public utilities certificates of necessity and convenience (HB 4195, MCL 460.506), the Public Service Commission (SB 69, MCL 460.4), telecommunications (SB 70, MCL 484.114), natural gas utilities (SB 71, MCL 483.110), and public utilities (SB 72 460.59).

In addition, House Bill 4196 would amend the section of the common carrier act amended by Public Act 312 of 1986 to specifically exempt the appeals process of three statutes (the gas safety standard act, the water carrier act, and the public utilities local assessment act) from provisions of the act.

FISCAL IMPLICATIONS:

The Senate Fiscal Agency says that Senate Bills 69-72 have no fiscal implications for the state (3-11-87). Fiscal information on the House Bills is not available at this time.

ARGUMENTS:

For:

The bills make up a technical cleanup package to fully implement the substantive procedural changes authorized last year in Public Act 312. Six of the nine bills are re-introductions from last session. These six bills had been tie-barred to House Bill 5099, which became Public Act '12, but in the legislative rush at the end of last session they failed to pass the Senate. The bills would amend sections of the PSC governing statute and related acts covering the four major areas of regulation (electricity, natural gas, telecommunications, and motor carriers) to bring them into conformity with the new appellate procedure implemented by Public Act 312 and to exempt certain areas of PSC regulation not intended for transfer.

For:

The Public Service Commission has requested three bills in addition to those reintroduced from last session to more fully complete the technical cleanup. House Bill 4196 would specifically add three more exemptions to the existing exemption of water companies from the appeals provisions of the act. These exemptions include portions of the gas safety standard act, water carriers, and local assessment appeals. These sections of the law are not rate cases and neither the utilities, the Attorney General, nor the courts requested their transfer of jurisdiction from the circuit court to the appeals court. The second new bill, House Bill 4194, would amend the public utilities securities act, which was the only statute not included in last year's package of auxiliary bills. The treatment of securities had not been considered a problem because those issuances already were handled before the appeals court, and the law never required circuit court jurisdiction of securities. Although current law actually authorizes Supreme Court jurisdiction of security sales by bonding houses, after initial approval or disapproval by the PSC, in practice those cases have been handled as though the appeals court, not the Supreme Court, was the first level of appeal from PSC decisions. The bill would amend the public securities statute to provide for direct appeals to the appellate court in line with all the rate case appeals. The third new bill, House Bill 4195, would provide for direct appeals of PSC orders regarding utility certificates of necessity and convenience to the Court of Appeals, rather than through the circuit court, as current law provides.

POSITIONS:

The Public Service Commission supports the bills (3-18-87).

The Department of Commerce supports the bills (3-18-87).

The Court of Appeals supports the concept of direct appeals of utility rate cases to the court, but opposes the inclusion of motor carrier cases in the direct appeal process (3-18-87).

The Michigan Trucking Association supports the bills (3-18-87).

Michigan Consolidated Gas Company supports the bills (3-18-87).