

FILE HR 2755

UNITED STATES GOVERNMENT

memorandum

DATE: November 25, 1983

REPLY TO
ATTN OF: Chief, Private Radio Bureau

SUBJECT: OMB Request for Comments on HR 2755

TO: Director of Legislation
Office of General Counsel

In your note of November 22, 1983 you referred to this Bureau the Enrolled Bill Request from OMB, with a specific request for comments on Sections 4(b), 9, 11 and 12 of HR 2755, currently on the President's desk for signature. The following are PRB's comments on the referenced Sections.

Section 4(b) - Adding this language to 503(b)(5) of the Act facilitates enforcement of the CB de-licensing provisions, and PRB has no problem with inclusion of this language in the bill.

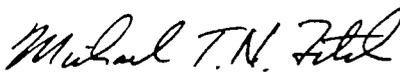
Section 9 - This language is the so-called Public Safety Amendment. PRB opposed inclusion of this language in HR 2755 (see attached letter from Chairman Fowler to Senator Goldwater). As stated in the letter, PRB is scheduled to conduct a study of present and future communications requirements of the public safety services which will address some of the concerns expressed in this Section. It is our belief that it would be more advantageous and helpful if we were allowed to conduct this study and implement its findings independently rather than having it mandated. Problems of statutory interpretation immediately arise with inclusion of this language - what is "a plan", how does one "adequately ensure" that "needs" will "be taken into account", what is meant by "consider the need for a nationwide contiguous frequency allocation", how does one "duly recognize" certain needs, all arise with respect to this language. The impact on our mission would be burdensome, but not unsurmountable. Even though PRB opposes inclusion of this language in the Authorization Bill, we could live with it.

Section 11 - In the attached second letter to Senator Goldwater from Chairman Fowler (7230-B), PRB expressed its agreement with the language in this Section, and we have no problem with its inclusion in the bill.

OPTIONAL FORM NO. 10
(REV. 1-80)
GSA FPMR (41 CFR) 101-11.6
5010-114

Section 12 - PRB opposes strongly the inclusion of this Section in the Authorization Bill, particularly the language of paragraph (b) which provides for unacceptable time limitations on Commission actions. NOIs, NPRMs, etc. would be short circuited by this language, as public comments and the full and accurate analysis of the comments, especially technical ones, take much longer than 1 year. Also, the Commission's developmental and experimental licensing procedure would be disrupted, since they normally take more than 1 year. Additionally, it takes time for full laboratory tests to be conducted, under the various conditions which the technology may be subjected to, and this would be reduced to an unacceptable time by the language in this bill. Finally, it is necessary to assess new technologies in terms of existing technologies, and mandating the completion of such an assessment within 1 year would pose a severe hardship on the Commission, not to mention the public which would have to live with a technology which has not been fully tested. The language of paragraph (b) should be opposed (as I am sure OST will make perfectly clear).

If you have any questions, please contact C. Victor Lander at 254-3301.


for Robert S. Foosaner

Attachments

OFFICE OF
THE CHAIRMAN

NOV 10 1983

Honorable Barry Goldwater
Chairman, Subcommittee on Communications
Committee on Commerce, Science and Transportation
United States Senate
Russell Senate Office Building
Room SR-146
Washington, D. C. 20510

Dear Chairman Goldwater:

This letter sets forth concerns we have about part of the Commission's Authorization Bill, HR-2755, which will soon be before the Senate Subcommittee on Communications.

The so called Public Safety Amendment to the bill states in pertinent part:

Sec. 5(a) Funds authorized to be appropriated under section 2 of this Act shall be used by the Federal Communications Commission to establish a plan which adequately ensures that the needs of state and local public safety authorities would be taken into account in making allocations of the electromagnetic spectrum. In establishing such a plan the Commission shall (1) review the current and future needs of such public safety authorities in light of suitable and commercially available equipment and (2) consider the need for a nationwide contiguous frequency allocation for public safety purposes.

(b) Pending adoption of a plan, the Commission, while making assignments and allocations, shall duly recognize the needs of state and local public safety authorities.

The Commission always has recognized and been sensitive to the needs of public safety authorities. We have been successful in the past in ensuring the primary importance of the public safety services, and we will continue to do so.

Additionally, the Private Radio Bureau is scheduled to conduct a study of present and future communications requirements of the public safety services. That study will address some of the concerns expressed in the referenced Section. We believe that it would be more advantageous to the mission of this agency to allow the Commission to undertake this study and implement its findings independently.

Honorable Barry Goldwater

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~~At this time we cannot~~ assess fully the detrimental impact of the language of the referenced Section. Of course, should the Congress approve the Authorization Bill with the language, it would be incumbent upon the Commission to implement its provisions.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark S. Fowler". The signature is written in a cursive, somewhat stylized script.

Mark S. Fowler
Chairman

Nov 3 1983

7230-B

Honorable Barry Goldwater
Chairman, Subcommittee on Communications
Committee on Commerce, Science, and Transportation
United States Senate
Russell Senate Office Building
Room SR 146
Washington, D.C. 20510

Dear Senator Goldwater:

This is in response to your letter of November 3, 1983, regarding recently promulgated regulations in PR Docket No. 83-27. That proceeding implements Public Law No. 97-259 which authorized the FCC to initiate a volunteer examination program above the Novice Class in the Amateur Radio Service. In your letter you recommend that we consider alternatives that would shift printing and distribution costs to the private sector in order to minimize out-of-pocket expenses to volunteer examiners and coordinators. We also note that on November 3, 1983, you introduced legislation (S.2045) that would expressly allow volunteers to recover such expenses.

The Commission indicated in its Report and Order in PR Docket No. 83-27 that the Miscellaneous Receipts Act, read in conjunction with other statutes, may preclude the imposition of any fee upon amateur operator examinees by volunteer examiners or coordinators. Moreover, Public Law 97-259 authorizes the Commission to delegate its licensing functions to volunteers only on an uncompensated basis. As a consequence, we believe the legislation you proposed on November 3, 1983 is a necessary prerequisite to the imposition of any examination fee, including any requirement that applicants purchase a published examination package.

Aside from the foregoing legal considerations, we believe the legislation you propose may also be the most effective means of insuring that volunteers do not incur inordinate out-of-pocket expenses. Volunteer-Examiner Coordinators (VEC's) and examiners will incur many substantial costs in addition to printing and distribution of examinations. These costs will include costs of telephone calls and written correspondence between the VEC and the FCC and between the VEC and examiners, and overhead for offices, coordination, administration, travel, and procurement of rooms or halls for examination sessions. Removal of printing and distribution burdens will not offset these out-of-pocket costs, and provision of some method of reimbursement for them is also desirable. Accordingly, it appears that S.2045 would be necessary to allow for the reimbursement of these other prudently incurred out-of-pocket expenditures.

Honorable Barry Goldwater

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The Commission fully supports S.2045. If this legislation could be placed on a "fast track" by attaching it to the agency's appropriation bill, it would greatly facilitate implementation of the Volunteer Examination Program.

I hope this response has been helpful. Your letter will be associated with PR Docket No. 83-27 and will be placed in the public file. Your interest in this docket, and in the future and direction of amateur radio, is appreciated.

Sincerely,



Mark S. Fowler
Chairman

JBorkowski:glb/ssd/PRB

cc: Special Services Div. File
Chairman's Office Room 814
Ellen Rafferty & SCI Files Room 857 (2) (w/incoming attached)
Legislative Affairs, OGC Room 658
Chief, Private Radio Bureau Room 5002
Chron

[June 29, 1983]

Amendment to H.R. 2755

RINALDO
Offered by Mr. Waxman

Page 4, after line 2, insert the following new section:

**Direction on Use of Funds Regarding Spectrum Allocation and
Assignments For Public Safety Purposes**

Sec. 5. (a) Funds authorized to be appropriated under section 2 of this Act shall be used by the Federal Communications Commission to establish a plan which adequately ensures that the needs of the State and local public safety authorities would be taken into account in making allocations of the electromagnetic spectrum. In establishing such a plan the Commission shall (1) review the current and future needs of such public safety authorities in light of suitable and commercially available equipment and (2) consider the need for a nationwide contiguous frequency allocation for public safety purposes.

(b) Pending adoption of a plan, the Commission while making assignments and allocations, shall duly recognize the needs of state and local public ^{safety} authorities.