

HOUSE BILL NO. 812

INTRODUCED BY SHONTZ, YARDLEY

IN THE HOUSE

February 15, 1983	Introduced and referred to Committee on Judiciary.
February 19, 1983	Committee recommend bill do pass as amended. Report adopted.
February 21, 1983	Bill printed and placed on members' desks.
February 22, 1983	Second reading, do pass.
February 23, 1983	Considered correctly engrossed.
	Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 1, 1983	Introduced and referred to Committee on Judiciary.
March 21, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 23, 1983	Second reading, concurred in.
March 25, 1983	Third reading, concurred in. Ayes, 47; Noes, 2.

IN THE HOUSE

March 25, 1983

Returned to House with
amendments.

March 31, 1983

Second reading, amendments
concurrent in.

April 1, 1983

Third reading, amendments
concurrent in.

Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 812
 2 INTRODUCED BY [Signature]
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT WHEN IT
 5 IS REQUIRED THAT LEGAL NOTICE BE GIVEN TO THE OWNER OF REAL
 6 PROPERTY NOTICE MUST ALSO BE GIVEN TO A PURCHASER OF THE
 7 PROPERTY UNDER A CONTRACT FOR DEED; AMENDING SECTIONS
 8 7-2-4312, 7-3-1309, 7-3-4431, 7-3-4448, 7-13-2304,
 9 7-14-4109, 7-15-4215, 7-22-2406, 7-22-2446, 15-7-102,
 10 15-7-208, 15-15-101, 15-18-202, 15-23-102, 50-62-103,
 11 69-4-317, 69-4-325, 69-4-353, 70-30-203, 76-3-605, 80-7-114,
 12 80-7-206, 82-2-224, 82-4-222, 82-4-239, 82-10-503, AND
 13 85-15-202, MCA."
 14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 16 NEW SECTION. Section 1. Notice to purchaser of
 17 property under contract for deed. (1) As used in this
 18 section, "purchaser under contract for deed" means any
 19 person who has entered into a contract with the record owner
 20 of real property in which it was agreed that the record
 21 owner will deliver the deed to the property to the purchaser
 22 when certain conditions have been met, such as completion of
 23 payments by the purchaser.
 24 (2) When it is required by statute that legal notice
 25 be given to the owner of real property, the same notice must

1 be given to a purchaser of that property under a contract
 2 for deed.
 3 Section 2. Section 7-2-4312, MCA, is amended to read:
 4 "7-2-4312. Resolution of intent by first-class city --
 5 notice. When, in the judgment of any city council of a city
 6 of the first class expressed by a resolution duly and
 7 regularly passed and adopted, it will be to the best
 8 interest of such city and the inhabitants of any contiguous
 9 platted tracts or parcels of land or unplatted land for
 10 which a certificate of survey has been filed that the
 11 boundaries of such city shall be extended so as to include
 12 the same within the corporate limits thereof, the city clerk
 13 of such city shall:
 14 (1) immediately notify in writing, addressed to the
 15 address to which tax notices are sent, all owners and
 16 purchasers under contracts for deed of property in the
 17 territory to be embraced; and
 18 (2) cause a notice to be published in the newspaper
 19 published nearest such platted tracts or parcels of land or
 20 unplatted land for which a certificate of survey has been
 21 filed, at least once a week for 2 successive weeks."
 22 Section 3. Section 7-3-1309, MCA, is amended to read:
 23 "7-3-1309. Division of assessment. (1) There shall be
 24 in the department of finance a division of assessment, the
 25 head of which shall be the assessor. The assessor and his

-2- INTRODUCED BILL
 HB 812

1 deputies shall have the powers, qualify in the manner, and
2 perform the duties prescribed for county assessors and
3 deputy assessors by general law.

4 (2) The assessor shall also be in charge of the
5 preparation of all special assessments for public
6 improvements, the giving of notice of such assessments to
7 property owners and purchasers of property under contracts
8 for deed, and the certification of all unpaid assessments to
9 the director of finance."

10 Section 4. Section 7-3-4431, MCA, is amended to read:

11 "7-3-4431. Department of finance. (1) The duties of
12 the director of finance shall include the keeping and
13 supervision of all accounts and the custody of all public
14 money of the municipality; the purchase, storage, and
15 distribution of supplies needed by the various departments;
16 the making and collection of special assessments; the
17 issuance of licenses; the collection of license fees and
18 taxes; and such other duties as the commission may by
19 ordinance require.

20 (2) He shall install and have supervision over the
21 accounts of all the departments and offices of the
22 municipality. Whenever practicable the books of financial
23 accounts shall be kept in the office of the department of
24 finance. He shall require daily departmental reports of
25 money receipts and the disposition thereof and shall require

1 of each, in such form as may be prescribed, current
2 financial and operating statements exhibiting each
3 transaction and the cost thereof. Upon the death,
4 resignation, removal or expiration of the term of any
5 officer, he shall examine the accounts of such officer and
6 report his findings to the city manager.

7 (3) He shall have charge of the preparation and
8 certification of all special assessments for public
9 improvements, the mailing of notices of such assessments to
10 property owners and purchasers of property under contracts
11 for deed and all other duties connected therewith, the
12 collection of such assessments as are payable directly to
13 the municipality, and the preparation and certification of
14 all unpaid assessments to the county treasurer for
15 collection. He shall issue all licenses and collect all fees
16 therefor and shall pay the same into the treasury in the
17 manner provided by ordinance.

18 (4) The director of finance shall be the custodian of
19 all public money of the municipality and all other public
20 money coming into his hands. He shall keep and preserve such
21 money in the place or places determined by ordinance or by
22 the provisions of any law applicable thereto. Except as
23 otherwise provided in this part or part 43, he shall
24 collect, receive, and disburse all public money of the
25 municipality upon warrant and shall also receive and

1 disburse all other public money coming into his hands in
2 pursuance of such regulations as may be prescribed by the
3 authorities having lawful control over such funds."

4 Section 5. Section 7-3-4448, MCA, is amended to read:

5 "7-3-4448. Vacating or changing name of street. (1)

6 The commission, in vacating any street or part of a street
7 or changing the name of any street, may include in one
8 ordinance the change of name or the vacation or narrowing of
9 more than one street, alley, or avenue. Before vacating any
10 street or part thereof or narrowing any street, the
11 commission shall first pass a resolution declaring its
12 intention to do so.

13 (2) The city manager shall serve notice of the
14 resolution, in the manner that service of summons is
15 required to be made in civil actions, upon all persons whose
16 ~~who are owners or purchasers under contracts for deed of~~
17 property ~~that~~ abuts upon the portion of the street affected
18 by the proposed vacation or narrowing and shall publish
19 notice once in one daily newspaper of general circulation in
20 the municipality if there is one or if not, once in one
21 weekly newspaper of like circulation. The notice shall
22 state the time and place at which objections will be heard.

23 (3) Unless at least 51% of the affected property
24 owners object to the proposed vacation or narrowing, the
25 commission may by ordinance declare such vacation or

1 narrowing. The order of the commission vacating or narrowing
2 a street or alley which has been dedicated to public use by
3 the proprietor, to the extent that it is vacated or
4 narrowed, operates as a revocation of the acceptance thereof
5 by the commission, but the right-of-way and easement therein
6 of any lot owner is not impaired thereby."

7 Section 6. Section 7-13-2304, MCA, is amended to read:

8 "7-13-2304. Notice of intention to levy tax. (1) When
9 the written estimate of the amount of money required has
10 been delivered to the board of county commissioners, said
11 board shall give notice of its intention to levy and collect
12 a tax sufficient for the payment thereof.

13 (2) Such notice shall be given:

14 (a) by posting notice thereof in five public places
15 within the county and within the boundaries of the lands
16 upon which the tax is to be levied;

17 (b) by publishing a copy of the notice once each week
18 for 2 consecutive weeks in a newspaper published in each
19 county wherein the district is located; and

20 (c) by forwarding, by regular first-class mail or
21 registered or certified mail at least 10 days prior to the
22 hearing provided for in 7-13-2306(4), a copy of the notice
23 addressed to the owners ~~and the purchasers under contracts~~
24 ~~for deed~~ of taxable real property within the district as
25 shown by the current assessment book on file in the office

1 of the assessor of the county or counties the boundaries of
2 which include taxable real property of the district."

3 Section 7. Section 7-14-4109, MCA, is amended to read:

4 "7-14-4109. Power to order certain improvements
5 without creation of special improvement district. (1)
6 Without the formation of a special improvement district, the
7 city council may order sidewalks, curbs, or gutters
8 constructed in front of any lot or parcel of land and may
9 order alley approaches constructed or replaced adjacent to
10 any lot or parcel of land.

11 (2) Whenever the council orders any such sidewalk,
12 curb, or gutter constructed or any such alley approach
13 constructed or replaced, the order shall be entered upon the
14 minutes of the council and shall name the street along which
15 the sidewalk, curb, or gutter is to be constructed or along
16 which the alley approach is to be constructed or replaced.

17 (3) After the making of such order, written notice
18 thereof shall be given to the owner or agent of the owner
19 ~~and to any purchaser under contract for deed~~ of such
20 property or the owners or agents of all adjacent owners
21 having access to their properties by the alley approach, as
22 appropriate, in such manner as the council may direct.

23 (4) If the owner or agent of the owner of such lot or
24 parcel of land or if the owners or agents of all adjacent
25 owners having access to their property by the alley approach

1 fail or neglect for a period of 30 days after the date of
2 service of the notice to cause such sidewalk, curb, or
3 gutter to be constructed or to cause such alley approaches
4 to be constructed or replaced, the city may construct or
5 cause the sidewalk, curb, or gutter to be constructed or may
6 construct or cause the alley approach to be constructed and
7 shall assess the cost thereof, including engineering costs
8 and the costs enumerated in 7-12-4121 and 7-12-4169, against
9 the property in front of which the same is constructed or
10 against the lots or parcels of land having access via the
11 constructed alley approaches. The collection of the assessed
12 costs shall be as provided in 7-12-4181 through 7-12-4191.

13 (5) (a) When any sidewalk, curb, or gutter or alley
14 approach is constructed by or under direction of the city
15 council, payment for the construction shall be made by
16 special warrants in such form as may be prescribed by
17 ordinance and drawn against a fund to be known as the
18 special sidewalk, curb, and gutter fund or the special alley
19 approach fund, as appropriate, and the council may provide
20 for the payment of interest annually.

21 (b) The warrants drawn on the special alley approach
22 fund shall bear interest at a rate of up to 6% a year."

23 Section 8. Section 7-15-4215, MCA, is amended to read:

24 "7-15-4215. Notice of hearing on urban renewal plan.
25 (1) The notice required by 7-15-4214(1) shall be given by

1 publication once each week for 2 consecutive weeks, not less
 2 than 10 or more than 30 days prior to the date of the
 3 hearing, in a newspaper having a general circulation in the
 4 urban renewal area of the municipality and by mailing a
 5 notice of such hearing, not less than 10 days prior to the
 6 date of the hearing, to the persons whose names appear on
 7 the county treasurer's tax roll as the owners or, reputed
 8 owners, or purchasers under contracts for deed of the
 9 property, at the address shown on the tax roll.

10 (2) The notice shall describe the time, date, place,
 11 and purpose of the hearing, shall generally identify the
 12 urban renewal area affected, and shall outline the general
 13 scope of the urban renewal plan under consideration."

14 Section 9. Section 7-22-2406, MCA, is amended to read:

15 "7-22-2406. Notice of hearing on petition to create
 16 district. (1) If addresses are known, the commissioners
 17 shall cause notice of the hearing provided for in 7-22-2403
 18 to be mailed to each nonresident owner and purchaser under
 19 contract for deed of taxable real and personal property
 20 within the proposed district.

21 (2) The commissioners shall cause notice to be posted
 22 in three public places within the district. Whenever the
 23 district is partly in one county and partly in another
 24 county, notice must be posted in each county but posting
 25 need not be in three places in each county.

1 (3) The commissioners shall also cause notice to be
 2 given of the time and place of the hearing and the methods
 3 of objection by publication in a newspaper within or nearest
 4 to the district and, if the district is partly in one county
 5 and partly in another county, in a newspaper in each county,
 6 if such newspaper exists. The publication must be for two
 7 weekly issues.

8 (4) Posting and first publication shall be at least 10
 9 days before the hearing."

10 Section 10. Section 7-22-2446, MCA, is amended to
 11 read:

12 "7-22-2446. Hearing on petition for dissolution --
 13 notice. Upon the filing of a petition for dissolution, the
 14 board of county commissioners shall set a time for hearing
 15 the petition and shall cause notice thereof to be mailed to
 16 all nonresident property owners and purchasers under
 17 contracts for deed within the district whose addresses are
 18 known, to be posted in at least three public places within
 19 the district, and to be published at least once in the
 20 official newspaper of the county published in the district,
 21 the posting and publication to be at least 10 days before
 22 the date of hearing. Whenever the district is partly in one
 23 county and partly in another county, notice must be posted
 24 in each county, but posting need not be in three places in
 25 each county, and notice must be published in the official

1 newspaper of each county."

2 Section 11. Section 15-7-102, MCA, is amended to read:

3 "15-7-102. Notice of classification and appraisal to
4 owners -- appeals. (1) It shall be the duty of the
5 department of revenue to cause to be mailed to each owner
6 ~~and purchaser under contract for deed~~ a notice of the
7 classification of the land owned ~~or being purchased~~ by him
8 and the appraisal of the improvements thereon.

9 (2) If the owner of any land and improvements is
10 dissatisfied with the appraisal or classification of his
11 land or improvements, he may submit his objection in writing
12 to the department's agent. The department shall give
13 reasonable notice to such taxpayer of the time and place of
14 hearing and hear any testimony or other evidence which the
15 taxpayer may desire to produce at such time and afford the
16 opportunity to other interested persons to produce evidence
17 at such hearing. Thereafter, the department shall determine
18 the true and correct appraisal and classification of such
19 land or improvements and forthwith notify the taxpayer of
20 its determination. In the notification, the department must
21 state its reasons for revising the classification or
22 appraisal. When so determined, the land shall be classified
23 and improvements appraised in the manner ordered by the
24 department.

25 (3) Whether a hearing as provided in subsection (2) is

1 held or not, the department or its agent may not adjust an
2 appraisal or classification upon taxpayer's objection
3 unless:

4 (a) the taxpayer has submitted his objection in
5 writing; and

6 (b) the department or its agent has stated its reason
7 in writing for making the adjustment.

8 (4) A taxpayer's written objection to a classification
9 or appraisal and the department's notification to the
10 taxpayer of its determination and the reason for that
11 determination are public records. Each county appraiser
12 shall make such records available for inspection during
13 regular office hours.

14 (5) If any property owner shall feel aggrieved at the
15 classification and/or the appraisal so made by the
16 department, he shall have the right to appeal to the county
17 tax appeal board and then to the state tax appeal board,
18 whose findings shall be final subject to the right of review
19 in the proper court or courts."

20 Section 12. Section 15-7-208, MCA, is amended to read:

21 "15-7-208. Reclassification by department. The
22 department of revenue or its agent may reclassify land as
23 nonagricultural upon giving due notice to the property owner
24 ~~or any purchaser under contract for deed~~ under the
25 provisions of 15-7-102. Upon notice of a change in

1 classification of land from agricultural to another use, the
 2 property owner may petition the department to reclassify the
 3 land as agricultural by completing a form prescribed by the
 4 department and by producing whatever information is
 5 necessary to prove that the subject land meets the
 6 definition of agricultural land embodied in 15-7-202."

7 Section 13. Section 15-15-101, MCA, is amended to
 8 read:

9 "15-15-101. County tax appeal board -- meetings and
 10 compensation. (1) The board of county commissioners of each
 11 county shall appoint a three-member county tax appeal board,
 12 with the members to serve staggered terms of 3 years each.
 13 The members of each county tax appeal board shall be
 14 residents of the county in which they serve. They shall
 15 receive compensation of \$25 a day and travel expenses as
 16 provided for in 2-18-501 through 2-18-503, as amended, only
 17 when the county tax appeal board is in session to hear
 18 taxpayers' appeals from property tax assessments or when
 19 they are attending meetings called by the state tax appeal
 20 board. Travel expenses and compensation shall be paid from
 21 the appropriation to the state tax appeal board. Office
 22 space and equipment for the county tax appeal boards shall
 23 be furnished by the county. All other incidental expenses
 24 shall be paid from the appropriation of the state tax appeal
 25 board.

1 (2) The county tax appeal board must meet on the third
 2 Monday of April in each year to hear protests concerning
 3 assessments made by the department of revenue. It must
 4 continue in session for that purpose from time to time until
 5 the business of hearing protests is disposed of, but, except
 6 as provided in 15-2-201, not later than 60 days after the
 7 department of revenue or its agent:

8 (a) has mailed notice of classification and appraisal
 9 to all property owners and purchasers under contracts for
 10 deed as required in 15-7-102; and

11 (b) has notified the county tax appeal board that
 12 classification and appraisal notices have been mailed to all
 13 property owners and purchasers under contracts for deed.

14 (3) In connection with any such appeal, the county tax
 15 appeal board may change any assessment or fix the assessment
 16 at some other level. The county clerk shall publish a notice
 17 to taxpayers, giving the time the county tax appeal board
 18 will meet to hear protests concerning assessments and the
 19 latest date the county tax appeal board may take
 20 applications for such hearings. The notice shall be
 21 published in a newspaper if any is printed in the county or,
 22 if none, then in such manner as the board may direct. The
 23 notice shall be published at least 7 days prior to the first
 24 meeting of the county tax appeal board.

25 (4) Challenges to a department of revenue rule

1 governing the assessment of property or to an assessment
 2 procedure shall apply only to the taxpayer bringing the
 3 challenge and may not apply to all similarly situated
 4 taxpayers unless an action is brought in the district court
 5 as provided in 15-2-307 through 15-2-310."

6 Section 14. Section 15-18-202, MCA, is amended to
 7 read:

8 "15-18-202. Notice of application for tax deed. (1)
 9 The purchaser of property sold for delinquent taxes or his
 10 assignee must, at least 60 days previous to the expiration
 11 of the time for redemption or at least 60 days before he
 12 applies for a deed, serve upon the owner of the property
 13 purchased, if known, ~~any purchaser of the property under~~
 14 ~~contract for deed, if known,~~ and upon the person occupying
 15 the property, if the said property is occupied, and if the
 16 records in the office of the county clerk and recorder show
 17 an unreleased mortgage or mortgages upon the property
 18 purchased, upon the mortgagee or mortgagees named in said
 19 mortgage or mortgages or, if assigned, upon the assignee or
 20 assignees of said mortgage or mortgages, a written notice
 21 stating that said property or a portion thereof has been
 22 sold for delinquent taxes, giving the date of sale, the
 23 amount of property sold, the amount for which it was sold,
 24 the amount due, and the time when the right of redemption
 25 will expire or when the purchaser will apply for a tax deed.

1 The owner of the property or the mortgagee or the assignee
 2 of said mortgagee has the right of redemption indefinitely,
 3 until such notice has been given and the deed applied for,
 4 upon the payment of fees, percentages, penalties, and costs
 5 required by law.

6 (2) Notice of ~~to~~ any owner, purchaser of property
 7 under contract for deed, mortgagee, or assignee of mortgagee
 8 shall be given by registered or certified letter addressed
 9 to such owner, purchaser, mortgagee, or assignee at the
 10 post-office address of said owner, purchaser, mortgagee, or
 11 assignee as disclosed by the mortgage records in the office
 12 of the county clerk and recorder. In case of unoccupied
 13 property or a mining claim, such notice must be by
 14 registered or certified mail deposited in the post office,
 15 addressed to any known owner residing in or outside of said
 16 county, with the postage thereon prepaid, at least 60 days
 17 before the expiration of the time for redemption or at least
 18 60 days before the purchaser applies for such tax deed, in
 19 addition to notice to the mortgagee or assignee of mortgagee
 20 in the manner and as hereby is provided.

21 (3) In all cases where the post-office address of the
 22 owner, purchaser, mortgagee, or assignee is unknown, the
 23 applicant shall publish once a week for 2 successive weeks
 24 in a newspaper published in the county where the property is
 25 situated a notice substantially in the following form:

1 Notice of Application for Tax Deed

2 Notice is hereby given that the undersigned will on the
3 day of, 19...., apply to the county treasurer
4 of county for a tax deed to the following described
5 property, to wit:

6 (Describe property)

7 Amount due \$.....

8 Date

9(Applicant)

10 (4) The first publication of such notice must be made
11 at least 60 days before the date of redemption or
12 application for said deed.

13 (5) In all cases due proof of service of notice in
14 whatever manner given, supported by the affidavit required
15 by law, must be filed immediately with the clerk and
16 recorder of the county in which the property is situated and
17 be kept as a permanent file in his office, and such proof of
18 notice when so filed shall be prima facie evidence of the
19 sufficiency of the notice."

20 Section 15. Section 15-23-102, MCA, is amended to
21 read:

22 "15-23-102. Notice of assessment -- opportunity for
23 conference -- appeal. After assessing property under
24 15-23-101, the department shall notify the owner and any
25 purchaser under contract for deed of such property, in

1 writing, of the assessed value it has determined. Within 20
2 days following notification, the taxpayer may demand a
3 review of the validity of the department's assessment. The
4 department shall conduct an assessment review conference,
5 which is not subject to the contested case procedures of the
6 Montana Administrative Procedure Act. However, a party has
7 the right of discovery prior to any assessment revision
8 review conference. Upon consideration following such
9 conference, the department may revise the assessment.
10 Appeals from the final decision may be taken to the state
11 tax appeal board."

12 Section 16. Section 50-62-103, MCA, is amended to
13 read:

14 "50-62-103. Service of order to repair or demolish
15 structure. (1) If the state fire marshal, a deputy state
16 fire marshal, or any officer mentioned in 50-62-101, upon an
17 examination or inspection, finds that a building or other
18 structure which for want of proper repair or by reason of
19 age and dilapidated condition, defective or poorly installed
20 electric wiring or equipment, defective chimneys, defective
21 gas connections or defective heating apparatus or for any
22 other cause or reason is especially liable to fire and is so
23 situated as to endanger other buildings or property in the
24 vicinity, he shall order the structure to be repaired, torn
25 down, or demolished and all materials removed and all

1 dangerous conditions remedied.

2 (2) The order shall be in writing, shall recite the
3 grounds therefor, and shall be filed in the office of the
4 clerk of the district court of the county in which the
5 building or structure ordered to be altered, repaired, or
6 demolished is situated, and thereupon all further
7 proceedings for the enforcement thereof shall be had in that
8 court.

9 (3) A copy of the order filed as aforesaid, together
10 with a written notice that it has been filed and will be put
11 in force unless the owner, occupant, or tenant shall file
12 with the clerk of the court his objections or answer thereto
13 within the time specified in 50-62-104, shall be served upon
14 the owner and any purchaser under contract for deed of the
15 building or structure directed to be altered, repaired, or
16 demolished. If there is a tenant occupying the building,
17 service shall also be made upon him. Service shall be made
18 upon the owner and occupant, if there is one, personally
19 either within or without the state.

20 (4) If the whereabouts of the owner or any purchaser
21 under contract for deed is unknown and he cannot be
22 ascertained by the state fire marshal by the exercise of
23 reasonable diligence, then upon his filing in the office of
24 the clerk of the district court his affidavit to this
25 effect, service of the notice upon the owner or any

1 purchaser under contract for deed may be made by the clerk
2 of the district court by publication of it once in each week
3 for 3 successive weeks in a newspaper printed and published
4 in the county in which the building or structure is located
5 and by posting a copy thereof in a conspicuous place upon
6 the building or structure, and the service so made is
7 complete upon the expiration of the publication period.
8 Proof of service of the notice shall be filed in the office
9 of the clerk of the district court within 5 days after the
10 service thereof."

11 Section 17. Section 69-4-317, MCA, is amended to read:
12 "69-4-317. Publication and distribution of notice. (1)
13 Notice shall be published in full five times in a daily
14 newspaper or once in a weekly newspaper of general
15 circulation in the county, city, or town in which said
16 district is located. A copy of such notice shall be mailed
17 by the governing body to each owner and purchaser under
18 contract for deed of land within the proposed district whose
19 property will be assessed for the cost of the improvement.
20 The address to be used for said purpose shall be that last
21 appearing on the real property assessment rolls of the
22 county wherein said property is located.

23 (2) Mailed notices and the published notice shall
24 state where a copy of the resolution will be available for
25 inspection by any interested parties."

1 Section 18. Section 69-4-325, MCA, is amended to read:

2 "69-4-325. Notice of hearing on proposed assessments.

3 (1) After the preparation of the ordinance provided for in
4 69-4-324, notice of a public hearing on the proposed
5 assessments shall be given.

6 (2) Such notice shall be published one time in a
7 newspaper in which the first notice of hearing was published
8 at least 20 days before the date fixed for the hearing and
9 shall be mailed by the governing body not less than 15 days
10 prior to the date fixed for such hearing to each owner and
11 purchaser under contract for deed of real property whose
12 property will be assessed for part of the cost of the
13 improvement at the addresses appearing on the last completed
14 real property assessment rolls of the county wherein said
15 affected property is located.

16 (3) (a) Each notice shall state that at the specified
17 time and place, the governing body will hold a public
18 hearing upon the proposed assessments and shall state that
19 any owner of any property to be assessed pursuant to the
20 ordinance will be heard on the question of whether his
21 property will be benefited by the proposed improvement to
22 the amount of the proposed assessment against his property
23 and whether the amount assessed against his property
24 constitutes more than his proper proportional share of the
25 total cost of the improvement.

1 (b) The notice shall further state where a copy of the
2 ordinance proposed to be adopted levying the assessments
3 against all real property in the district will be on file
4 for public inspection and that, subject to such changes and
5 corrections therein as may be made by the governing body, it
6 is proposed to adopt the ordinance at the conclusion of the
7 hearing.

8 (c) The published notice shall describe the boundaries
9 or area of the district with sufficient particularity to
10 permit each owner of real property therein to ascertain that
11 his property lies in the district. The mailed notice may
12 refer to the district by name and date of creation and shall
13 state the amount of the assessment proposed to be levied
14 against the real property of the person to whom the notice
15 is mailed and the terms of installment financing, if any. In
16 the absence of fraud, the failure to mail any notice does
17 not invalidate any assessment or any proceeding under this
18 part."

19 Section 19. Section 69-4-353, MCA, is amended to read:

20 "69-4-353. Conversion of facilities on public property

21 -- notice to landowners. (1) Upon completion of the
22 conversion of the overhead electric or communication
23 facilities on public lands and right-of-way to underground,
24 the public utility shall file a verified statement of the
25 costs of such conversion with the governing body.

1 (2) The governing body shall mail to each landowner
2 ~~and purchaser of property under contract for deed~~ a notice
3 stating that:

4 (a) service from the underground facilities is
5 available;

6 (b) the landowner has 60 days after the date of the
7 mailing of such notice to convert all overhead electric or
8 communication facilities providing service to any structure
9 or improvement located on his lot or parcel to underground
10 service facilities; and

11 (c) after the 60-day period following the date of the
12 mailing of the notice, the governing body will order the
13 public utility to disconnect and remove all overhead
14 electric and communication facilities providing service to
15 any structure or improvement within the area.*

16 Section 20. Section 70-30-203, MCA, is amended to
17 read:

18 "70-30-203. Contents of complaint. The complaint must
19 contain:

20 (1) the name of the corporation, association,
21 commission, or person in charge of the public use for which
22 the property is sought, who must be styled plaintiff;

23 (2) the names of all owners, ~~purchasers under~~
24 ~~contracts for deed~~, mortgagees, and lienholders of record
25 and any other claimants of the property of record, if known,

1 or a statement that they are unknown, who must be styled
2 defendants;

3 (3) a statement of the right of plaintiff;

4 (4) if a right-of-way is sought, the complaint must
5 show the location, general route, and termini and must be
6 accompanied with a map thereof, so far as the same is
7 involved in the action or proceeding;

8 (5) a description of each piece of land sought to be
9 taken and whether the same includes the whole or only a part
10 of the entire parcel or tract. All parcels lying in the
11 county and required for the same public use may be included
12 in the same or separate proceedings, at the option of the
13 plaintiff, but the court may consolidate or separate them to
14 suit the convenience of the parties. When application for
15 the condemnation of a right-of-way for the purposes of
16 sewerage is made on behalf of a settlement or a town or a
17 county, the county commissioners of the county may be named
18 as plaintiff.

19 (6) if a sand, stratum, or formation suitable for use
20 as an underground natural gas storage reservoir is sought to
21 be appropriated, a description thereof and of the land in
22 which it is alleged to be contained and a description of all
23 other property and rights sought to be appropriated for use
24 in connection with the appropriation of the right to store
25 natural gas in and withdraw natural gas from such reservoir.

1 In addition, the complaint shall state facts showing that
 2 the underground reservoir is one subject to appropriation by
 3 plaintiff; also stating that the underground storage of
 4 natural gas in the land sought to be appropriated is in the
 5 public interest; that the underground reservoir is suitable
 6 and practicable for natural gas storage; that the plaintiff
 7 in good faith has been unable to acquire the rights sought
 8 to be appropriated hereunder and a statement that the rights
 9 and property sought to be appropriated are not prohibited by
 10 law; and in addition, the complaint must be accompanied by a
 11 certificate from the board of oil and gas conservation as
 12 set forth in 82-10-304."

13 Section 21. Section 76-3-605, MCA, is amended to read:
 14 "76-3-605. Hearing on preliminary plat. (1) The
 15 governing body or its authorized agent or agency shall hold
 16 a public hearing on the preliminary plat and shall consider
 17 all relevant evidence relating to the public health, safety,
 18 and welfare, including the environmental assessment, to
 19 determine whether the plat should be approved, conditionally
 20 approved, or disapproved by the governing body.

21 (2) When a proposed subdivision is also proposed to be
 22 annexed to a municipality, the governing body of the
 23 municipality shall hold joint hearings on the preliminary
 24 plat and annexation whenever possible.

25 (3) Notice of such hearing shall be given by

1 publication in a newspaper of general circulation in the
 2 county not less than 15 days prior to the date of the
 3 hearing. The subdivider, and each property owner of record,
 4 ~~and each purchaser under contract for deed of property~~
 5 immediately adjoining the land included in the plat shall
 6 also be notified of the hearing by registered or certified
 7 mail not less than 15 days prior to the date of the hearing.

8 (4) When a hearing is held by an agent or agency
 9 designated by the governing body, the agent or agency shall
 10 act in an advisory capacity and recommend to the governing
 11 body the approval, conditional approval, or disapproval of
 12 the plat. This recommendation must be submitted to the
 13 governing body in writing not later than 10 days after the
 14 public hearing."

15 Section 22. Section 80-7-114, MCA, is amended to read:
 16 "80-7-114. Removal of infected trees -- assessment of
 17 costs. (1) If a person owning any orchard or nursery stock
 18 infected or infested with any injurious insect pest or
 19 disease and which becomes a menace to the agricultural or
 20 fruit industry or a menace to ornamental trees, shrubs,
 21 plants, or vines fails to comply with the instructions of
 22 the department for the destruction or control of the
 23 injurious insect pest or disease or the destruction of the
 24 infested or infected orchard or nursery stock within the
 25 time specified by the department, the department may

1 condemn, remove, or destroy the orchard or nursery stock or
2 treat it with a proper remedy.

3 (2) If an owner fails to pay the cost of the removal,
4 treatment, or destruction within 30 days after notice has
5 been mailed to the owner at his last known post-office
6 address and to any purchaser of the property under contract
7 for deed at his last known post-office address, the cost
8 shall become a lien on the land of the owner and shall be
9 added by the county treasurer to the taxes upon the property
10 and collected as other taxes."

11 Section 23. Section 80-7-206, MCA, is amended to read:

12 *80-7-206. Expenses of eradicating orchard diseases --
13 collection as tax. (1) When, under the direction or rules of
14 the department, any money is spent by it to eradicate any
15 disease or insect pest from an orchard or other place where
16 fruits are grown or kept, the department shall notify the
17 owner of the orchard or premises and any purchaser of the
18 property under contract for deed in writing of the amount
19 spent plus an additional charge of 25% of the amount spent.
20 The notice shall be mailed to the last known address of the
21 owner or purchaser under contract for deed.

22 (2) If the owner fails to pay the amount spent by the
23 department plus the additional charge of 25% within 30 days
24 of the time the notice is sent, the department shall file a
25 verified statement with the county treasurer where the money

1 was spent. The statement shall set forth the amount spent
2 plus the additional charge of 25%, together with the correct
3 description of the property on which the money was spent as
4 it appears on the assessment roll of the county.

5 (3) The county treasurer shall add the amount
6 contained in the statement to the taxes upon the property
7 and shall collect them in the manner provided for collection
8 of state and county taxes.

9 (4) The county treasurer in any county where any money
10 is collected as provided in subsection (3) shall, on or
11 before February 1 each year, remit the amount to the state
12 treasurer, who shall deposit same to the credit of the
13 general fund of the state."

14 Section 24. Section 82-2-224, MCA, is amended to read:

15 *82-2-224. Notice of condemnation -- filing of plat.
16 Any party seeking to condemn property for open-pit mining
17 purposes shall serve notice in writing on all owners and
18 purchasers under contracts for deed of property within 300
19 yards of the surface tract sought to be condemned or in lieu
20 thereof shall file a plat showing the boundaries of the
21 property sought to be condemned in the office of the county
22 clerk and recorder, and the filing of said plat shall
23 constitute notice to the owner or owners not personally
24 served with written notice as herein provided."

25 Section 25. Section 82-4-222, MCA, is amended to read:

1 "82-4-222. Permit application. (1) An operator
2 desiring a permit shall file an application which shall
3 contain a complete and detailed plan for the mining,
4 reclamation, revegetation, and rehabilitation of the land
5 and water to be affected by the operation. Such plan shall
6 reflect thorough advance investigation and study by the
7 operator and shall include all known or readily discoverable
8 past and present uses of the land and water to be affected
9 and the approximate periods of such use and shall state:

10 (a) the location and area of land to be affected by
11 the operation, with a description of access to the area from
12 the nearest public highways;

13 (b) the names and addresses of the owners of record
14 ~~and any purchasers under contracts for deed~~ of the surface
15 of the area of land to be affected by the permit and the
16 owners of record ~~and any purchasers under contracts for deed~~
17 of all surface area within one-half mile of any part of the
18 affected area;

19 (c) the names and addresses of the present owners of
20 record ~~and any purchasers under contracts for deed~~ of all
21 subsurface minerals in the land to be affected;

22 (d) the source of the applicant's legal right to mine
23 the mineral on the land affected by the permit;

24 (e) the permanent and temporary post-office addresses
25 of the applicant;

1 (f) whether the applicant or any person associated
2 with the applicant holds or has held any other permits under
3 this part and an identification of those permits;

4 (g) whether the applicant is in compliance with
5 82-4-251 and, if known, whether every officer, partner,
6 director, or any individual owning of record or
7 beneficially, alone or with associates, 10% or more of any
8 class of stock of the applicant is subject to any of the
9 provisions of 82-4-251 and he shall so certify and whether
10 any of the foregoing parties or persons have ever had a
11 strip-mining or underground-mining license or permit issued
12 by any other state or federal agency revoked or have ever
13 forfeited a strip-mining or underground-mining bond or a
14 security deposited in lieu of a bond and, if so, a detailed
15 explanation of the facts involved in each case must be
16 attached;

17 (h) the names and addresses of any persons who are
18 engaged in strip- or underground-mining activities on behalf
19 of the applicant;

20 (i) the annual rainfall and the direction and average
21 velocity of the prevailing winds in the area where the
22 applicant has requested a permit;

23 (j) the results of any test borings or core samplings
24 which the applicant or his agent has conducted on the land
25 to be affected, including the nature and the depth of the

1 various strata or overburden and topsoil, the quantities and
 2 location of subsurface water and its quality, the thickness
 3 of any mineral seam, an analysis of the chemical properties
 4 of such minerals, including the acidity, sulphur content,
 5 and trace mineral elements of any coal seam, as well as the
 6 British thermal unit (Btu) content of such seam, and an
 7 analysis of the overburden, including topsoil. If test
 8 borings or core samplings are submitted, each permit
 9 application shall contain two copies each of two sets of
 10 geologic cross sections accurately depicting the known
 11 geologic makeup beneath the surface of the affected land.
 12 Each set shall depict subsurface conditions at such
 13 intervals as the department requires across the surface and
 14 shall run at a 90-degree angle to the other set. The
 15 department may not require intervals of less than 500 feet.
 16 Each cross section shall depict the thickness and geologic
 17 character of all known strata beginning with the topsoil. In
 18 addition, each application for an underground-mining permit
 19 shall be accompanied by cross sections and maps showing the
 20 proposed underground locations of all shafts, entries, and
 21 haulageways or other excavations to be excavated during the
 22 permit period. These cross sections shall also include all
 23 existing shafts, entries, and haulageways.

24 (k) the name and date of a daily newspaper of general
 25 circulation within the county in which the applicant will

1 prominently publish at least once a week for 4 successive
 2 weeks after submission of the application an announcement of
 3 his application for a strip-mining or underground-mining
 4 permit and a detailed description of the area of land to be
 5 affected should a permit be granted;

6 (l) a determination of the probable hydrologic
 7 consequences of coal mining and reclamation operations, both
 8 on and off the mine site, with respect to the hydrologic
 9 regime, quantity and quality of water in surface- and
 10 ground-water systems, including the dissolved and suspended
 11 solids under seasonal flow conditions and the collection of
 12 sufficient data for the mine site and surrounding areas, so
 13 that cumulative impacts of all anticipated mining in the
 14 area upon the hydrology of the area and particularly upon
 15 water availability can be made. However, this determination
 16 is not required until such time as hydrologic information on
 17 the general area prior to mining is made available from an
 18 appropriate federal or state agency. The permit may not be
 19 approved until such information is available and is
 20 incorporated into the application.

21 (m) a coal conservation plan; and
 22 (n) such other or further information as the
 23 department may require.

24 (2) The application for a permit shall be accompanied
 25 by two copies of all maps meeting the requirements of the

1 subsections below. The maps shall:

2 (a) identify the area to correspond with the
3 application;

4 (b) show any adjacent deep mining or surface mining
5 and the boundaries of surface properties and names of owners
6 of record of the affected area and within 1,000 feet of any
7 part of the affected area;

8 (c) show the names and locations of all streams,
9 creeks, or other bodies of water, roads, buildings,
10 cemeteries, oil and gas wells, and utility lines on the area
11 of land affected and within 1,000 feet of such area;

12 (d) show by appropriate markings the boundaries of the
13 area of land affected, any cropline of the seam or deposit
14 of mineral to be mined, and the total number of acres
15 involved in the area of land affected;

16 (e) show the date on which the map was prepared and
17 the north point;

18 (f) show the final surface and underground water
19 drainage plan on and away from the area of land affected.
20 This plan shall indicate the directional and volume flow of
21 water, constructed drainways, natural waterways used for
22 drainage, and the streams or tributaries receiving the
23 discharge.

24 (g) show the proposed location of waste or refuse
25 area;

1 (h) show the proposed location of temporary subsoil
2 and topsoil storage areas;

3 (i) show the proposed location of all facilities;

4 (j) show the location of test boring holes;

5 (k) show the surface location lines of any geologic
6 cross sections which have been submitted;

7 (l) show a listing of plant varieties encountered in
8 the area to be affected and their relative dominance in the
9 area, together with an enumeration of tree varieties and the
10 approximate number of each variety occurring per acre on the
11 area to be affected, and the locations generally of the
12 various kinds and varieties of plants, including but not
13 limited to grasses, shrubs, legumes, forbs, and trees;

14 (m) be certified as follows: "I, the undersigned,
15 hereby certify that this map is correct and shows to the
16 best of my knowledge and belief all the information required
17 by the mining laws of this state." The certification shall
18 be signed and notarized. The department may reject a map as
19 incomplete if its accuracy is not so attested.

20 (n) contain such other or further information as the
21 department may require.

22 (3) If the department finds that the probable total
23 annual production at all locations of any strip- or
24 underground-coal-mining operation applied for will not
25 exceed 100,000 tons, any determination of probable

1 hydrologic consequences that the department requires and the
 2 statement of result of test borings or core samplings shall,
 3 upon written request of the operator, be performed by a
 4 qualified public or private laboratory designated by the
 5 department. The department shall assume the cost of the
 6 determination and statement to the extent that it has
 7 received funds for this purpose.

8 (4) In addition to the information and maps required
 9 above, each application for a permit shall be accompanied by
 10 detailed plans or proposals showing the method of operation,
 11 the manner, time or distance, and estimated cost for
 12 backfilling, subsidence stabilization, water control,
 13 grading work, highwall reduction, topsoiling, planting,
 14 revegetating, and a reclamation plan for the area affected
 15 by the operation, which proposals shall meet the
 16 requirements of this part and rules adopted under this part.
 17 The reclamation plan shall address the life of the operation
 18 and indicate the size, sequence, and the timing of the
 19 subareas for which it is anticipated that individual permits
 20 will be sought.

21 (5) Each applicant for a coal mining permit shall
 22 submit as part of the application a certificate issued by an
 23 insurance company authorized to do business in the state
 24 certifying that the applicant has in force for the strip- or
 25 underground-mining and reclamation operations for which the

1 permit is sought a public liability insurance policy, or
 2 evidence that the applicant has satisfied other state or
 3 federal self-insurance requirements. This policy shall
 4 provide for personal injury and property damage protection
 5 in an amount adequate to compensate any persons damaged as a
 6 result of strip- or underground-coal-mining and reclamation
 7 operations, including use of explosives, and entitled to
 8 compensation under applicable provisions of state law. The
 9 permittee must maintain the policy in full force and effect
 10 during the term of the permit and any renewal until all
 11 reclamation operations have been completed.

12 (6) Each applicant for a strip-mining or
 13 underground-mining reclamation permit shall file a copy of
 14 his application for public inspection with the clerk and
 15 recorder at the courthouse of the county where the major
 16 portion of mining is proposed to occur."

17 Section 26. Section 82-4-239, MCA, is amended to read:
 18 "82-4-239. Reclamation by board. (1) The board may
 19 have reclamation work done by its own employees or by
 20 employees of other governmental agencies, soil conservation
 21 districts, or through contracts with qualified persons. The
 22 board may construct, operate, and maintain plants for the
 23 control and treatment of water pollution resulting from mine
 24 drainage.

25 (2) Any funds or any public works programs available

1 to the board shall be used and expended to reclaim and
 2 rehabilitate lands that have been subjected to strip mining
 3 or underground mining that have not been reclaimed and
 4 rehabilitated in accordance with the standards of this part.
 5 The board shall cooperate with federal, state, and private
 6 agencies to engage in cooperative projects under this
 7 section.

8 (3) Agents, employees, or contractors of the
 9 department may enter upon any land for the purpose of
 10 conducting studies or exploratory work to determine whether
 11 such land has been strip- or underground-mined and not
 12 reclaimed and rehabilitated in accordance with the
 13 requirements of this part and to determine the feasibility
 14 of restoration, reclamation, abatement, control, or
 15 prevention of any adverse effects of past coal-mining
 16 practices. Upon request of the commissioner, the attorney
 17 general shall bring an injunctive action to restrain any
 18 interference with the exercise of the right to enter and
 19 inspect granted in this subsection.

20 (4) If the department makes a finding of fact that:

21 (a) land or water resources have been adversely
 22 affected by past coal-mining practices; and

23 (b) the adverse effects are at a stage where in the
 24 public interest action to restore, reclaim, abate, control,
 25 or prevent should be taken; and

1 (c) the owners of the land or water resources where
 2 entry must be made to restore, reclaim, abate, control, or
 3 prevent the adverse effects of past coal-mining practices
 4 are not known or readily available or the owners will not
 5 give permission for the department or its agents, employees,
 6 or contractors to enter upon such property to restore,
 7 reclaim, abate, control, or prevent the adverse effects of
 8 past coal-mining practices;

9 then agents, employees, or contractors of the
 10 department, after giving notice by mail to the owner, if
 11 known, ~~and any purchaser under contract for deed, if known,~~
 12 or, if not ~~neither is~~ known, by posting notice upon the
 13 premises and advertising in a newspaper of general
 14 circulation in the county in which the land lies, may enter
 15 upon property adversely affected by past coal-mining
 16 practices and any other property necessary for access to
 17 such mineral property to do all things necessary or
 18 expedient to restore, reclaim, abate, control, or prevent
 19 the adverse effects of past coal-mining practices. This act
 20 is not an act of condemnation of property or of trespass but
 21 rather an exercise of the power granted by sections 1 and 2,
 22 Article IX of the Montana constitution.

23 (5) (a) Within 6 months after the completion of
 24 projects to restore, reclaim, abate, control, or prevent
 25 adverse effects of past coal-mining practices on privately

1 owned land, the department shall itemize the money so
 2 expended and may file a statement thereof in the office of
 3 the clerk and recorder of the county in which the land lies,
 4 together with a notarized appraisal by an independent
 5 appraiser of the value of the land before the restoration,
 6 reclamation, abatement, control, or prevention of adverse
 7 effects of past coal-mining practices if the money so
 8 expended shall result in a significant increase in property
 9 value. Such statement constitutes a lien upon the land. The
 10 lien may not exceed the amount determined by the appraisal
 11 to be the increase in the market value of the land as a
 12 result of the restoration, reclamation, abatement, control,
 13 or prevention of the adverse effects of past coal-mining
 14 practices. No lien may be filed against the property of any
 15 person, in accordance with this subsection, who owned the
 16 surface prior to May 2, 1977, and who neither consented to
 17 nor participated in nor exercised control over the mining
 18 operation which necessitated the reclamation performed under
 19 this part.

20 (b) The landowner may petition within 60 days of the
 21 filing of the lien to determine the increase in the market
 22 value of the land as a result of the restoration,
 23 reclamation, abatement, control, or prevention of the
 24 adverse effects of past coal-mining practices. The amount
 25 reported to be the increase in value of the premises

1 constitutes the amount of the lien and shall be recorded
 2 with the statement herein provided. Any party aggrieved by
 3 the decision may appeal as provided by law.

4 (c) The lien provided in this section shall be
 5 recorded at the office of the county clerk and recorder. The
 6 statement constitutes a lien upon the land as of the date of
 7 the expenditure of the money and has priority as a lien
 8 second only to the lien of real estate taxes imposed upon
 9 the land.

10 (6) The board may acquire the necessary property by
 11 gift or purchase or, if the property cannot be acquired by
 12 gift or purchase at a reasonable cost, proceedings may be
 13 instituted in the manner provided in Title 70, chapter 30,
 14 against all nonaccepting landholders if:

15 (a) the property is necessary for successful
 16 reclamation;

17 (b) the acquired land after restoration, reclamation,
 18 abatement, control, or prevention of the adverse effects of
 19 past coal-mining practices will serve recreation and
 20 historic purposes or conservation and reclamation purposes
 21 or provide open space benefits; and

22 (c) permanent facilities such as treatment plants or
 23 relocated stream channels will be constructed on the land
 24 for the restoration, reclamation, abatement, control, or
 25 prevention of the adverse effects of past strip- or

1 underground-coal-mining practices; or acquisition of coal
 2 refuse disposal sites and all coal refuse thereon will serve
 3 the purposes of this part in that public ownership is
 4 desirable to meet emergency situations and prevent
 5 recurrences of the adverse effects of past coal-mining
 6 practices."

7 Section 27. Section 82-10-503, MCA, is amended to
 8 read:

9 "82-10-503. Notice of drilling operations. In addition
 10 to the requirements for geophysical exploration activities
 11 governed by Title 82, chapter 1, part 1, the oil and gas
 12 developer or operator shall give the surface owner and any
 13 purchaser under contract for deed written notice of the
 14 drilling operations that he plans to undertake. This notice
 15 shall be given to the record surface owner and any purchaser
 16 under contract for deed at ~~his~~ their addresses as
 17 shown by the records of the county clerk and recorder at the
 18 time the notice is given. This notice shall sufficiently
 19 disclose the plan of work and operations to enable the
 20 surface owner to evaluate the effect of drilling operations
 21 on the surface owner's use of the property."

22 Section 28. Section 85-15-202, MCA, is amended to
 23 read:

24 "85-15-202. Examination and report -- subsequent
 25 actions. (1) It is the duty of the persons so appointed to

1 make a thorough examination of the dam or reservoir. If,
 2 upon examination, they find that persons or property are
 3 endangered by reason of the dam or reservoir and it is not
 4 secure against the pressure of the water confined therein or
 5 the water that may be confined therein or against rains and
 6 freshets that may occur and if they find that the same is
 7 secure against the occurrence of the casualties mentioned or
 8 any of them, they must make a report in writing to the
 9 judge, which must be entered of record as a proceeding in
 10 court.

11 (2) If, upon such examination as to the safety of such
 12 reservoir, they consider such reservoir insufficient and
 13 insecure, they must further inquire whether the danger to be
 14 apprehended is imminent, and if they are of the opinion that
 15 such danger is imminent and that destruction of life or
 16 property may result from delay, it is their duty forthwith
 17 to draw from such reservoir the waters therein or so much
 18 thereof as will insure safety, and they must make return of
 19 their action to the judge. In the discharge of such duties,
 20 the persons so acting are peace officers.

21 (3) If, upon examination, they are of opinion that
 22 such dam or reservoir is insecure and insufficient but that
 23 the danger therefrom is not immediate or imminent, they must
 24 so state in their report to the judge. The judge must
 25 thereupon cause a copy of the report to be served on the

1 owner or ~~of the property,~~ the person in charge thereof, and
2 ~~any purchaser of the property under contract for deed,~~ with
3 a notice requiring him to make the same secure or to draw
4 the water therefrom without delay. Unless such order is
5 complied with after hearing, the judge may order the sheriff
6 to draw from said dam or reservoir the waters thereof."

-End-

Approved by Committee
on Judiciary

HOUSE BILL NO. 812

INTRODUCED BY SHONTZ, YARDLEY

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT WHEN IT IS REQUIRED THAT LEGAL NOTICE BE GIVEN TO THE OWNER OF REAL PROPERTY NOTICE MUST ALSO BE GIVEN TO A PURCHASER OF THE PROPERTY UNDER A CONTRACT FOR DEED; AMENDING SECTIONS 7-2-4312, 7-3-1309, 7-3-4431, 7-3-4448, 7-13-2304, 7-14-4109, 7-15-4215, 7-22-2406, 7-22-2446, 15-7-102, 15-7-208, 15-15-101, 15-18-202, 15-23-102, 50-62-103, 69-4-317, 69-4-325, 69-4-353, 70-30-203, 76-3-605, 80-7-114, 80-7-206, 82-2-224, 82-4-222, 82-4-239, 82-10-503, ~~85-2-232~~, ~~85-2-307~~, AND 85-15-202, MCA."

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

~~NEW SECTION.~~ Section 1. Notice to purchaser of property under contract for deed. (1) As used in this section, "purchaser under contract for deed" means any person who:

(A) has entered into a contract with the record owner of real property in which it was agreed that the record owner will deliver the deed to the property to the purchaser when certain conditions have been met, such as completion of payments by the purchaser; AND

(B) HAS RECORDED THE CONTRACT OR AN ABSTRACT OF THE

CONTRACT IN ACCORDANCE WITH TITLE 70, CHAPTER 21.

(2) When it is required by statute that legal notice be given to the owner of real property, the same notice must be given to a purchaser of that property under a contract for deed.

Section 2. Section 7-2-4312, MCA, is amended to read: "7-2-4312. Resolution of intent by first-class city -- notice. When, in the judgment of any city council of a city of the first class expressed by a resolution duly and regularly passed and adopted, it will be to the best interest of such city and the inhabitants of any contiguous platted tracts or parcels of land or unplatted land for which a certificate of survey has been filed that the boundaries of such city shall be extended so as to include the same within the corporate limits thereof, the city clerk of such city shall:

(1) immediately notify in writing, addressed to the address to which tax notices are sent, all owners and purchasers under contracts for deed of property in the territory to be embraced; and

(2) cause a notice to be published in the newspaper published nearest such platted tracts or parcels of land or unplatted land for which a certificate of survey has been filed, at least once a week for 2 successive weeks."

Section 3. Section 7-3-1309, MCA, is amended to read:

1 "7-3-1309. Division of assessment. (1) There shall be
2 in the department of finance a division of assessment, the
3 head of which shall be the assessor. The assessor and his
4 deputies shall have the powers, qualify in the manner, and
5 perform the duties prescribed for county assessors and
6 deputy assessors by general law.

7 (2) The assessor shall also be in charge of the
8 preparation of all special assessments for public
9 improvements, the giving of notice of such assessments to
10 property owners and purchasers of property under contracts
11 for deed, and the certification of all unpaid assessments to
12 the director of finance."

13 Section 4. Section 7-3-4431, MCA, is amended to read:

14 "7-3-4431. Department of finance. (1) The duties of
15 the director of finance shall include the keeping and
16 supervision of all accounts and the custody of all public
17 money of the municipality; the purchase, storage, and
18 distribution of supplies needed by the various departments;
19 the making and collection of special assessments; the
20 issuance of licenses; the collection of license fees and
21 taxes; and such other duties as the commission may by
22 ordinance require.

23 (2) He shall install and have supervision over the
24 accounts of all the departments and offices of the
25 municipality. Whenever practicable the books of financial

1 accounts shall be kept in the office of the department of
2 finance. He shall require daily departmental reports of
3 money receipts and the disposition thereof and shall require
4 of each, in such form as may be prescribed, current
5 financial and operating statements exhibiting each
6 transaction and the cost thereof. Upon the death,
7 resignation, removal or expiration of the term of any
8 officer, he shall examine the accounts of such officer and
9 report his findings to the city manager.

10 (3) He shall have charge of the preparation and
11 certification of all special assessments for public
12 improvements, the mailing of notices of such assessments to
13 property owners and purchasers of property under contracts
14 for deed and all other duties connected therewith, the
15 collection of such assessments as are payable directly to
16 the municipality, and the preparation and certification of
17 all unpaid assessments to the county treasurer for
18 collection. He shall issue all licenses and collect all fees
19 therefor and shall pay the same into the treasury in the
20 manner provided by ordinance.

21 (4) The director of finance shall be the custodian of
22 all public money of the municipality and all other public
23 money coming into his hands. He shall keep and preserve such
24 money in the place or places determined by ordinance or by
25 the provisions of any law applicable thereto. Except as

1 otherwise provided in this part or part 43, he shall
 2 collect, receive, and disburse all public money of the
 3 municipality upon warrant and shall also receive and
 4 disburse all other public money coming into his hands in
 5 pursuance of such regulations as may be prescribed by the
 6 authorities having lawful control over such funds."

7 Section 5. Section 7-3-4448, MCA, is amended to read:

8 "7-3-4448. Vacating or changing name of street. (1)

9 The commission, in vacating any street or part of a street
 10 or changing the name of any street, may include in one
 11 ordinance the change of name or the vacation or narrowing of
 12 more than one street, alley, or avenue. Before vacating any
 13 street or part thereof or narrowing any street, the
 14 commission shall first pass a resolution declaring its
 15 intention to do so.

16 (2) The city manager shall serve notice of the
 17 resolution, in the manner that service of summons is
 18 required to be made in civil actions, upon all persons whose
 19 ~~who are owners or purchasers under contracts for deed of~~
 20 property ~~that~~ abuts upon the portion of the street affected
 21 by the proposed vacation or narrowing and shall publish
 22 notice once in one daily newspaper of general circulation in
 23 the municipality if there is one or if not, once in one
 24 weekly newspaper of like circulation. The notice shall
 25 state the time and place at which objections will be heard.

1 (3) Unless at least 51% of the affected property
 2 owners object to the proposed vacation or narrowing, the
 3 commission may by ordinance declare such vacation or
 4 narrowing. The order of the commission vacating or narrowing
 5 a street or alley which has been dedicated to public use by
 6 the proprietor, to the extent that it is vacated or
 7 narrowed, operates as a revocation of the acceptance thereof
 8 by the commission, but the right-of-way and easement therein
 9 of any lot owner is not impaired thereby."

10 Section 6. Section 7-13-2304, MCA, is amended to read:

11 "7-13-2304. Notice of intention to levy tax. (1) When
 12 the written estimate of the amount of money required has
 13 been delivered to the board of county commissioners, said
 14 board shall give notice of its intention to levy and collect
 15 a tax sufficient for the payment thereof.

16 (2) Such notice shall be given:

17 (a) by posting notice thereof in five public places
 18 within the county and within the boundaries of the lands
 19 upon which the tax is to be levied;

20 (b) by publishing a copy of the notice once each week
 21 for 2 consecutive weeks in a newspaper published in each
 22 county wherein the district is located; and

23 (c) by forwarding, by regular first-class mail or
 24 registered or certified mail at least 10 days prior to the
 25 hearing provided for in 7-13-2306(4), a copy of the notice

1 addressed to the owners ~~and the purchasers under contracts~~
 2 ~~for deed~~ of taxable real property within the district as
 3 shown by the current assessment book on file in the office
 4 of the assessor of the county or counties the boundaries of
 5 which include taxable real property of the district."

6 Section 7. Section 7-14-4109, MCA, is amended to read:
 7 "7-14-4109. Power to order certain improvements
 8 without creation of special improvement district. (1)
 9 Without the formation of a special improvement district, the
 10 city council may order sidewalks, curbs, or gutters
 11 constructed in front of any lot or parcel of land and may
 12 order alley approaches constructed or replaced adjacent to
 13 any lot or parcel of land.

14 (2) Whenever the council orders any such sidewalk,
 15 curb, or gutter constructed or any such alley approach
 16 constructed or replaced, the order shall be entered upon the
 17 minutes of the council and shall name the street along which
 18 the sidewalk, curb, or gutter is to be constructed or along
 19 which the alley approach is to be constructed or replaced.

20 (3) After the making of such order, written notice
 21 thereof shall be given ~~to~~ the owner or agent of the owner
 22 ~~and to any purchaser under contract for deed~~ of such
 23 property or the owners or agents of all adjacent owners
 24 having access to their properties by the alley approach, as
 25 appropriate, in such manner as the council may direct.

1 (4) If the owner or agent of the owner of such lot or
 2 parcel of land or if the owners or agents of all adjacent
 3 owners having access to their property by the alley approach
 4 fail or neglect for a period of 30 days after the date of
 5 service of the notice to cause such sidewalk, curb, or
 6 gutter to be constructed or to cause such alley approaches
 7 to be constructed or replaced, the city may construct or
 8 cause the sidewalk, curb, or gutter to be constructed or may
 9 construct or cause the alley approach to be constructed and
 10 shall assess the cost thereof, including engineering costs
 11 and the costs enumerated in 7-12-4121 and 7-12-4169, against
 12 the property in front of which the same is constructed or
 13 against the lots or parcels of land having access via the
 14 constructed alley approaches. The collection of the assessed
 15 costs shall be as provided in 7-12-4181 through 7-12-4191.

16 (5) (a) When any sidewalk, curb, or gutter or alley
 17 approach is constructed by or under direction of the city
 18 council, payment for the construction shall be made by
 19 special warrants in such form as may be prescribed by
 20 ordinance and drawn against a fund to be known as the
 21 special sidewalk, curb, and gutter fund or the special alley
 22 approach fund, as appropriate, and the council may provide
 23 for the payment of interest annually.

24 (b) The warrants drawn on the special alley approach
 25 fund shall bear interest at a rate of up to 6% a year."

1 Section 8. Section 7-15-4215, MCA, is amended to read:

2 "7-15-4215. Notice of hearing on urban renewal plan.

3 (1) The notice required by 7-15-4214(1) shall be given by
 4 publication once each week for 2 consecutive weeks, not less
 5 than 10 or more than 30 days prior to the date of the
 6 hearing, in a newspaper having a general circulation in the
 7 urban renewal area of the municipality and by mailing a
 8 notice of such hearing, not less than 10 days prior to the
 9 date of the hearing, to the persons whose names appear on
 10 the county treasurer's tax roll as the owners or, reputed
 11 owners, or purchasers under contracts for deed of the
 12 property, at the address shown on the tax roll.

13 (2) The notice shall describe the time, date, place,
 14 and purpose of the hearing, shall generally identify the
 15 urban renewal area affected, and shall outline the general
 16 scope of the urban renewal plan under consideration."

17 Section 9. Section 7-22-2406, MCA, is amended to read:

18 "7-22-2406. Notice of hearing on petition to create
 19 district. (1) If addresses are known, the commissioners
 20 shall cause notice of the hearing provided for in 7-22-2403
 21 to be mailed to each nonresident owner and purchaser under
 22 contract for deed of taxable real and personal property
 23 within the proposed district.

24 (2) The commissioners shall cause notice to be posted
 25 in three public places within the district. Whenever the

1 district is partly in one county and partly in another
 2 county, notice must be posted in each county but posting
 3 need not be in three places in each county.

4 (3) The commissioners shall also cause notice to be
 5 given of the time and place of the hearing and the methods
 6 of objection by publication in a newspaper within or nearest
 7 to the district and, if the district is partly in one county
 8 and partly in another county, in a newspaper in each county,
 9 if such newspaper exists. The publication must be for two
 10 weekly issues.

11 (4) Posting and first publication shall be at least 10
 12 days before the hearing."

13 Section 10. Section 7-22-2446, MCA, is amended to
 14 read:

15 "7-22-2446. Hearing on petition for dissolution --
 16 notice. Upon the filing of a petition for dissolution, the
 17 board of county commissioners shall set a time for hearing
 18 the petition and shall cause notice thereof to be mailed to
 19 all nonresident property owners and purchasers under
 20 contracts for deed within the district whose addresses are
 21 known, to be posted in at least three public places within
 22 the district, and to be published at least once in the
 23 official newspaper of the county published in the district,
 24 the posting and publication to be at least 10 days before
 25 the date of hearing. Whenever the district is partly in one

1 county and partly in another county, notice must be posted
2 in each county, but posting need not be in three places in
3 each county, and notice must be published in the official
4 newspaper of each county."

5 Section 11. Section 15-7-102, MCA, is amended to read:

6 "15-7-102. Notice of classification and appraisal to
7 owners -- appeals. (1) It shall be the duty of the
8 department of revenue to cause to be mailed to each owner
9 and purchaser under contract for deed a notice of the
10 classification of the land owned or being purchased by him
11 and the appraisal of the improvements thereon.

12 (2) If the owner of any land and improvements is
13 dissatisfied with the appraisal or classification of his
14 land or improvements, he may submit his objection in writing
15 to the department's agent. The department shall give
16 reasonable notice to such taxpayer of the time and place of
17 hearing and hear any testimony or other evidence which the
18 taxpayer may desire to produce at such time and afford the
19 opportunity to other interested persons to produce evidence
20 at such hearing. Thereafter, the department shall determine
21 the true and correct appraisal and classification of such
22 land or improvements and forthwith notify the taxpayer of
23 its determination. In the notification, the department must
24 state its reasons for revising the classification or
25 appraisal. When so determined, the land shall be classified

1 and improvements appraised in the manner ordered by the
2 department.

3 (3) Whether a hearing as provided in subsection (2) is
4 held or not, the department or its agent may not adjust an
5 appraisal or classification upon taxpayer's objection
6 unless:

7 (a) the taxpayer has submitted his objection in
8 writing; and

9 (b) the department or its agent has stated its reason
10 in writing for making the adjustment.

11 (4) A taxpayer's written objection to a classification
12 or appraisal and the department's notification to the
13 taxpayer of its determination and the reason for that
14 determination are public records. Each county appraiser
15 shall make such records available for inspection during
16 regular office hours.

17 (5) If any property owner shall feel aggrieved at the
18 classification and/or the appraisal so made by the
19 department, he shall have the right to appeal to the county
20 tax appeal board and then to the state tax appeal board,
21 whose findings shall be final subject to the right of review
22 in the proper court or courts."

23 Section 12. Section 15-7-208, MCA, is amended to read:

24 "15-7-208. Reclassification by department. The
25 department of revenue or its agent may reclassify land as

1 nonagricultural upon giving due notice to the property owner
 2 or any purchaser under contract for deed under the
 3 provisions of 15-7-102. Upon notice of a change in
 4 classification of land from agricultural to another use, the
 5 property owner may petition the department to reclassify the
 6 land as agricultural by completing a form prescribed by the
 7 department and by producing whatever information is
 8 necessary to prove that the subject land meets the
 9 definition of agricultural land embodied in 15-7-202."

10 Section 13. Section 15-15-101, MCA, is amended to
 11 read:

12 "15-15-101. County tax appeal board -- meetings and
 13 compensation. (1) The board of county commissioners of each
 14 county shall appoint a three-member county tax appeal board,
 15 with the members to serve staggered terms of 3 years each.
 16 The members of each county tax appeal board shall be
 17 residents of the county in which they serve. They shall
 18 receive compensation of \$25 a day and travel expenses as
 19 provided for in 2-18-501 through 2-18-503, as amended, only
 20 when the county tax appeal board is in session to hear
 21 taxpayers' appeals from property tax assessments or when
 22 they are attending meetings called by the state tax appeal
 23 board. Travel expenses and compensation shall be paid from
 24 the appropriation to the state tax appeal board. Office
 25 space and equipment for the county tax appeal boards shall

1 be furnished by the county. All other incidental expenses
 2 shall be paid from the appropriation of the state tax appeal
 3 board.

4 (2) The county tax appeal board must meet on the third
 5 Monday of April in each year to hear protests concerning
 6 assessments made by the department of revenue. It must
 7 continue in session for that purpose from time to time until
 8 the business of hearing protests is disposed of, but, except
 9 as provided in 15-2-201, not later than 60 days after the
 10 department of revenue or its agent:

11 (a) has mailed notice of classification and appraisal
 12 to all property owners and purchasers under contracts for
 13 deed as required in 15-7-102; and

14 (b) has notified the county tax appeal board that
 15 classification and appraisal notices have been mailed to all
 16 property owners and purchasers under contracts for deed.

17 (3) In connection with any such appeal, the county tax
 18 appeal board may change any assessment or fix the assessment
 19 at some other level. The county clerk shall publish a notice
 20 to taxpayers, giving the time the county tax appeal board
 21 will meet to hear protests concerning assessments and the
 22 latest date the county tax appeal board may take
 23 applications for such hearings. The notice shall be
 24 published in a newspaper if any is printed in the county or,
 25 if none, then in such manner as the board may direct. The

1 notice shall be published at least 7 days prior to the first
2 meeting of the county tax appeal board.

3 (4) Challenges to a department of revenue rule
4 governing the assessment of property or to an assessment
5 procedure shall apply only to the taxpayer bringing the
6 challenge and may not apply to all similarly situated
7 taxpayers unless an action is brought in the district court
8 as provided in 15-2-307 through 15-2-310."

9 Section 14. Section 15-18-202, MCA, is amended to
10 read:

11 "15-18-202. Notice of application for tax deed. (1)
12 The purchaser of property sold for delinquent taxes or his
13 assignee must, at least 60 days previous to the expiration
14 of the time for redemption or at least 60 days before he
15 applies for a deed, serve upon the owner of the property
16 purchased, if known, ~~any purchaser of the property under~~
17 ~~contract for deeds, if known,~~ and upon the person occupying
18 the property, if the said property is occupied, and if the
19 records in the office of the county clerk and recorder show
20 an unreleased mortgage or mortgages upon the property
21 purchased, upon the mortgagee or mortgagees named in said
22 mortgage or mortgages or, if assigned, upon the assignee or
23 assignees of said mortgage or mortgages, a written notice
24 stating that said property or a portion thereof has been
25 sold for delinquent taxes, giving the date of sale, the

1 amount of property sold, the amount for which it was sold,
2 the amount due, and the time when the right of redemption
3 will expire or when the purchaser will apply for a tax deed.
4 The owner of the property or the mortgagee or the assignee
5 of said mortgagee has the right of redemption indefinitely,
6 until such notice has been given and the deed applied for,
7 upon the payment of fees, percentages, penalties, and costs
8 required by law.

9 (2) Notice of ~~to~~ any owner, ~~purchaser of property~~
10 ~~under contract for deed,~~ mortgagee, or assignee of mortgagee
11 shall be given by registered or certified letter addressed
12 to such ~~owner, purchaser,~~ mortgagee, or assignee at the
13 post-office address of said owner, ~~purchaser,~~ mortgagee, or
14 assignee as disclosed by the mortgage records in the office
15 of the county clerk and recorder. In case of unoccupied
16 property or a mining claim, such notice must be by
17 registered or certified mail deposited in the post office,
18 addressed to any known owner residing in or outside of said
19 county, with the postage thereon prepaid, at least 60 days
20 before the expiration of the time for redemption or at least
21 60 days before the purchaser applies for such tax deed, in
22 addition to notice to the mortgagee or assignee of mortgagee
23 in the manner and as hereby is provided.

24 (3) In all cases where the post-office address of the
25 owner, ~~purchaser,~~ mortgagee, or assignee is unknown, the

1 applicant shall publish once a week for 2 successive weeks
2 in a newspaper published in the county where the property is
3 situated a notice substantially in the following form:

4 Notice of Application for Tax Deed

5 Notice is hereby given that the undersigned will on the
6 day of, 19..., apply to the county treasurer
7 of county for a tax deed to the following described
8 property, to wit:

9 (Describe property)

10 Amount due \$.....

11 Date

12(Applicant)

13 (4) The first publication of such notice must be made
14 at least 60 days before the date of redemption or
15 application for said deed.

16 (5) In all cases due proof of service of notice in
17 whatever manner given, supported by the affidavit required
18 by law, must be filed immediately with the clerk and
19 recorder of the county in which the property is situated and
20 be kept as a permanent file in his office, and such proof of
21 notice when so filed shall be prima facie evidence of the
22 sufficiency of the notice."

23 Section 15. Section 15-23-102, MCA, is amended to
24 read:

25 "15-23-102. Notice of assessment -- opportunity for

1 conference -- appeal. After assessing property under
2 15-23-101, the department shall notify the owner and any
3 purchaser under contract for deed of such property, in
4 writing, of the assessed value it has determined. Within 20
5 days following notification, the taxpayer may demand a
6 review of the validity of the department's assessment. The
7 department shall conduct an assessment review conference,
8 which is not subject to the contested case procedures of the
9 Montana Administrative Procedure Act. However, a party has
10 the right of discovery prior to any assessment revision
11 review conference. Upon consideration following such
12 conference, the department may revise the assessment.
13 Appeals from the final decision may be taken to the state
14 tax appeal board."

15 Section 16. Section 50-62-103, MCA, is amended to
16 read:

17 "50-62-103. Service of order to repair or demolish
18 structure. (1) If the state fire marshal, a deputy state
19 fire marshal, or any officer mentioned in 50-62-101, upon an
20 examination or inspection, finds that a building or other
21 structure which for want of proper repair or by reason of
22 age and dilapidated condition, defective or poorly installed
23 electric wiring or equipment, defective chimneys, defective
24 gas connections or defective heating apparatus or for any
25 other cause or reason is especially liable to fire and is so

1 situated as to endanger other buildings or property in the
2 vicinity, he shall order the structure to be repaired, torn
3 down, or demolished and all materials removed and all
4 dangerous conditions remedied.

5 (2) The order shall be in writing, shall recite the
6 grounds therefor, and shall be filed in the office of the
7 clerk of the district court of the county in which the
8 building or structure ordered to be altered, repaired, or
9 demolished is situated, and thereupon all further
10 proceedings for the enforcement thereof shall be had in that
11 court.

12 (3) A copy of the order filed as aforesaid, together
13 with a written notice that it has been filed and will be put
14 in force unless the owner, occupant, or tenant shall file
15 with the clerk of the court his objections or answer thereto
16 within the time specified in 50-62-104, shall be served upon
17 the owner and any purchaser under contract for deed of the
18 building or structure directed to be altered, repaired, or
19 demolished. If there is a tenant occupying the building,
20 service shall also be made upon him. Service shall be made
21 upon the owner and occupant, if there is one, personally
22 either within or without the state.

23 (4) If the whereabouts of the owner or any purchaser
24 under contract for deed is unknown and he cannot be
25 ascertained by the state fire marshal by the exercise of

1 reasonable diligence, then upon his filing in the office of
2 the clerk of the district court his affidavit to this
3 effect, service of the notice upon the owner or any
4 purchaser under contract for deed may be made by the clerk
5 of the district court by publication of it once in each week
6 for 3 successive weeks in a newspaper printed and published
7 in the county in which the building or structure is located
8 and by posting a copy thereof in a conspicuous place upon
9 the building or structure, and the service so made is
10 complete upon the expiration of the publication period.
11 Proof of service of the notice shall be filed in the office
12 of the clerk of the district court within 5 days after the
13 service thereof."

14 Section 17. Section 69-4-317, MCA, is amended to read:

15 "69-4-317. Publication and distribution of notice. (1)
16 Notice shall be published in full five times in a daily
17 newspaper or once in a weekly newspaper of general
18 circulation in the county, city, or town in which said
19 district is located. A copy of such notice shall be mailed
20 by the governing body to each owner and purchaser under
21 contract for deed of land within the proposed district whose
22 property will be assessed for the cost of the improvement.
23 The address to be used for said purpose shall be that last
24 appearing on the real property assessment rolls of the
25 county wherein said property is located.

1 (2) Mailed notices and the published notice shall
2 state where a copy of the resolution will be available for
3 inspection by any interested parties."

4 Section 18. Section 69-4-325, MCA, is amended to read:

5 "69-4-325. Notice of hearing on proposed assessments.

6 (1) After the preparation of the ordinance provided for in
7 69-4-324, notice of a public hearing on the proposed
8 assessments shall be given.

9 (2) Such notice shall be published one time in a
10 newspaper in which the first notice of hearing was published
11 at least 20 days before the date fixed for the hearing and
12 shall be mailed by the governing body not less than 15 days
13 prior to the date fixed for such hearing to each owner ~~and~~
14 ~~purchaser under contract for deed~~ of real property whose
15 property will be assessed for part of the cost of the
16 improvement at the addresses appearing on the last completed
17 real property assessment rolls of the county wherein said
18 affected property is located.

19 (3) (a) Each notice shall state that at the specified
20 time and place, the governing body will hold a public
21 hearing upon the proposed assessments and shall state that
22 any owner of any property to be assessed pursuant to the
23 ordinance will be heard on the question of whether his
24 property will be benefited by the proposed improvement to
25 the amount of the proposed assessment against his property

1 and whether the amount assessed against his property
2 constitutes more than his proper proportional share of the
3 total cost of the improvement.

4 (b) The notice shall further state where a copy of the
5 ordinance proposed to be adopted levying the assessments
6 against all real property in the district will be on file
7 for public inspection and that, subject to such changes and
8 corrections therein as may be made by the governing body, it
9 is proposed to adopt the ordinance at the conclusion of the
10 hearing.

11 (c) The published notice shall describe the boundaries
12 or area of the district with sufficient particularity to
13 permit each owner of real property therein to ascertain that
14 his property lies in the district. The mailed notice may
15 refer to the district by name and date of creation and shall
16 state the amount of the assessment proposed to be levied
17 against the real property of the person to whom the notice
18 is mailed and the terms of installment financing, if any. In
19 the absence of fraud, the failure to mail any notice does
20 not invalidate any assessment or any proceeding under this
21 part."

22 Section 19. Section 69-4-353, MCA, is amended to read:

23 "69-4-353. Conversion of facilities on public property
24 -- notice to landowners. (1) Upon completion of the
25 conversion of the overhead electric or communication

1 facilities on public lands and right-of-way to underground,
2 the public utility shall file a verified statement of the
3 costs of such conversion with the governing body.

4 (2) The governing body shall mail to each landowner
5 and purchaser of property under contract for deed a notice
6 stating that:

7 (a) service from the underground facilities is
8 available;

9 (b) the landowner has 60 days after the date of the
10 mailing of such notice to convert all overhead electric or
11 communication facilities providing service to any structure
12 or improvement located on his lot or parcel to underground
13 service facilities; and

14 (c) after the 60-day period following the date of the
15 mailing of the notice, the governing body will order the
16 public utility to disconnect and remove all overhead
17 electric and communication facilities providing service to
18 any structure or improvement within the area."

19 Section 20. Section 70-30-203, MCA, is amended to
20 read:

21 "70-30-203. Contents of complaint. The complaint must
22 contain:

23 (1) the name of the corporation, association,
24 commission, or person in charge of the public use for which
25 the property is sought, who must be styled plaintiff;

1 (2) the names of all owners, purchasers under
2 contracts for deed, mortgagees, and lienholders of record
3 and any other claimants of the property of record, if known,
4 or a statement that they are unknown, who must be styled
5 defendants;

6 (3) a statement of the right of plaintiff;

7 (4) if a right-of-way is sought, the complaint must
8 show the location, general route, and termini and must be
9 accompanied with a map thereof, so far as the same is
10 involved in the action or proceeding;

11 (5) a description of each piece of land sought to be
12 taken and whether the same includes the whole or only a part
13 of the entire parcel or tract. All parcels lying in the
14 county and required for the same public use may be included
15 in the same or separate proceedings, at the option of the
16 plaintiff, but the court may consolidate or separate them to
17 suit the convenience of the parties. When application for
18 the condemnation of a right-of-way for the purposes of
19 sewerage is made on behalf of a settlement or a town or a
20 county, the county commissioners of the county may be named
21 as plaintiff.

22 (6) if a sand, stratum, or formation suitable for use
23 as an underground natural gas storage reservoir is sought to
24 be appropriated, a description thereof and of the land in
25 which it is alleged to be contained and a description of all

1 other property and rights sought to be appropriated for use
 2 in connection with the appropriation of the right to store
 3 natural gas in and withdraw natural gas from such reservoir.
 4 In addition, the complaint shall state facts showing that
 5 the underground reservoir is one subject to appropriation by
 6 plaintiff; also stating that the underground storage of
 7 natural gas in the land sought to be appropriated is in the
 8 public interest; that the underground reservoir is suitable
 9 and practicable for natural gas storage; that the plaintiff
 10 in good faith has been unable to acquire the rights sought
 11 to be appropriated hereunder and a statement that the rights
 12 and property sought to be appropriated are not prohibited by
 13 law; and in addition, the complaint must be accompanied by a
 14 certificate from the board of oil and gas conservation as
 15 set forth in 82-10-304."

16 Section 21. Section 76-3-605, MCA, is amended to read:

17 *76-3-605. Hearing on preliminary plat. (1) The
 18 governing body or its authorized agent or agency shall hold
 19 a public hearing on the preliminary plat and shall consider
 20 all relevant evidence relating to the public health, safety,
 21 and welfare, including the environmental assessment, to
 22 determine whether the plat should be approved, conditionally
 23 approved, or disapproved by the governing body.

24 (2) When a proposed subdivision is also proposed to be
 25 annexed to a municipality, the governing body of the

1 municipality shall hold joint hearings on the preliminary
 2 plat and annexation whenever possible.

3 (3) Notice of such hearing shall be given by
 4 publication in a newspaper of general circulation in the
 5 county not less than 15 days prior to the date of the
 6 hearing. The subdivider, and each property owner of records
 7 ~~and each purchaser under contract for deed of property~~
 8 immediately adjoining the land included in the plat shall
 9 also be notified of the hearing by registered or certified
 10 mail not less than 15 days prior to the date of the hearing.

11 (4) When a hearing is held by an agent or agency
 12 designated by the governing body, the agent or agency shall
 13 act in an advisory capacity and recommend to the governing
 14 body the approval, conditional approval, or disapproval of
 15 the plat. This recommendation must be submitted to the
 16 governing body in writing not later than 10 days after the
 17 public hearing."

18 Section 22. Section 80-7-114, MCA, is amended to read:

19 *80-7-114. Removal of infected trees -- assessment of
 20 costs. (1) If a person owning any orchard or nursery stock
 21 infected or infested with any injurious insect pest or
 22 disease and which becomes a menace to the agricultural or
 23 fruit industry or a menace to ornamental trees, shrubs,
 24 plants, or vines fails to comply with the instructions of
 25 the department for the destruction or control of the

1 injurious insect pest or disease or the destruction of the
 2 infested or infected orchard or nursery stock within the
 3 time specified by the department, the department may
 4 condemn, remove, or destroy the orchard or nursery stock or
 5 treat it with a proper remedy.

6 (2) If an owner fails to pay the cost of the removal,
 7 treatment, or destruction within 30 days after notice has
 8 been mailed to the owner at his last known post-office
 9 address and to any purchaser of the property under contract
 10 for deed at his last known post-office address, the cost
 11 shall become a lien on the land of the owner and shall be
 12 added by the county treasurer to the taxes upon the property
 13 and collected as other taxes."

14 Section 23. Section 80-7-206, MCA, is amended to read:

15 "80-7-206. Expenses of eradicating orchard diseases --
 16 collection as tax. (1) When, under the direction or rules of
 17 the department, any money is spent by it to eradicate any
 18 disease or insect pest from an orchard or other place where
 19 fruits are grown or kept, the department shall notify the
 20 owner of the orchard or premises and any purchaser of the
 21 property under contract for deed in writing of the amount
 22 spent plus an additional charge of 25% of the amount spent.
 23 The notice shall be mailed to the last known address of the
 24 owner or purchaser under contract for deed.

25 (2) If the owner fails to pay the amount spent by the

1 department plus the additional charge of 25% within 30 days
 2 of the time the notice is sent, the department shall file a
 3 verified statement with the county treasurer where the money
 4 was spent. The statement shall set forth the amount spent
 5 plus the additional charge of 25%, together with the correct
 6 description of the property on which the money was spent as
 7 it appears on the assessment roll of the county.

8 (3) The county treasurer shall add the amount
 9 contained in the statement to the taxes upon the property
 10 and shall collect them in the manner provided for collection
 11 of state and county taxes.

12 (4) The county treasurer in any county where any money
 13 is collected as provided in subsection (3) shall, on or
 14 before February 1 each year, remit the amount to the state
 15 treasurer, who shall deposit same to the credit of the
 16 general fund of the state."

17 Section 24. Section 82-2-224, MCA, is amended to read:

18 "82-2-224. Notice of condemnation -- filing of plat.
 19 Any party seeking to condemn property for open-pit mining
 20 purposes shall serve notice in writing on all owners and
 21 purchasers under contracts for deed of property within 300
 22 yards of the surface tract sought to be condemned or in lieu
 23 thereof shall file a plat showing the boundaries of the
 24 property sought to be condemned in the office of the county
 25 clerk and recorder, and the filing of said plat shall

1 constitute notice to the owner or owners not personally
2 served with written notice as herein provided.*

3 Section 25. Section 82-4-222, MCA, is amended to read:

4 "82-4-222. Permit application. (1) An operator
5 desiring a permit shall file an application which shall
6 contain a complete and detailed plan for the mining,
7 reclamation, revegetation, and rehabilitation of the land
8 and water to be affected by the operation. Such plan shall
9 reflect thorough advance investigation and study by the
10 operator and shall include all known or readily discoverable
11 past and present uses of the land and water to be affected
12 and the approximate periods of such use and shall state:

13 (a) the location and area of land to be affected by
14 the operation, with a description of access to the area from
15 the nearest public highways;

16 (b) the names and addresses of the owners of record
17 ~~and any purchasers under contracts for deed~~ of the surface
18 of the area of land to be affected by the permit and the
19 owners of record ~~and any purchasers under contracts for deed~~
20 of all surface area within one-half mile of any part of the
21 affected area;

22 (c) the names and addresses of the present owners of
23 record ~~and any purchasers under contracts for deed~~ of all
24 subsurface minerals in the land to be affected;

25 (d) the source of the applicant's legal right to mine

1 the mineral on the land affected by the permit;

2 (e) the permanent and temporary post-office addresses
3 of the applicant;

4 (f) whether the applicant or any person associated
5 with the applicant holds or has held any other permits under
6 this part and an identification of those permits;

7 (g) whether the applicant is in compliance with
8 82-4-251 and, if known, whether every officer, partner,
9 director, or any individual owning of record or
10 beneficially, alone or with associates, 10% or more of any
11 class of stock of the applicant is subject to any of the
12 provisions of 82-4-251 and he shall so certify and whether
13 any of the foregoing parties or persons have ever had a
14 strip-mining or underground-mining license or permit issued
15 by any other state or federal agency revoked or have ever
16 forfeited a strip-mining or underground-mining bond or a
17 security deposited in lieu of a bond and, if so, a detailed
18 explanation of the facts involved in each case must be
19 attached;

20 (h) the names and addresses of any persons who are
21 engaged in strip- or underground-mining activities on behalf
22 of the applicant;

23 (i) the annual rainfall and the direction and average
24 velocity of the prevailing winds in the area where the
25 applicant has requested a permit;

1 (j) the results of any test borings or core samplings
 2 which the applicant or his agent has conducted on the land
 3 to be affected, including the nature and the depth of the
 4 various strata or overburden and topsoil, the quantities and
 5 location of subsurface water and its quality, the thickness
 6 of any mineral seam, an analysis of the chemical properties
 7 of such minerals, including the acidity, sulphur content,
 8 and trace mineral elements of any coal seam, as well as the
 9 British thermal unit (Btu) content of such seam, and an
 10 analysis of the overburden, including topsoil. If test
 11 borings or core samplings are submitted, each permit
 12 application shall contain two copies each of two sets of
 13 geologic cross sections accurately depicting the known
 14 geologic makeup beneath the surface of the affected land.
 15 Each set shall depict subsurface conditions at such
 16 intervals as the department requires across the surface and
 17 shall run at a 90-degree angle to the other set. The
 18 department may not require intervals of less than 500 feet.
 19 Each cross section shall depict the thickness and geologic
 20 character of all known strata beginning with the topsoil. In
 21 addition, each application for an underground-mining permit
 22 shall be accompanied by cross sections and maps showing the
 23 proposed underground locations of all shafts, entries, and
 24 haulageways or other excavations to be excavated during the
 25 permit period. These cross sections shall also include all

1 existing shafts, entries, and haulageways.

2 (k) the name and date of a daily newspaper of general
 3 circulation within the county in which the applicant will
 4 prominently publish at least once a week for 4 successive
 5 weeks after submission of the application an announcement of
 6 his application for a strip-mining or underground-mining
 7 permit and a detailed description of the area of land to be
 8 affected should a permit be granted;

9 (l) a determination of the probable hydrologic
 10 consequences of coal mining and reclamation operations, both
 11 on and off the mine site, with respect to the hydrologic
 12 regime, quantity and quality of water in surface- and
 13 ground-water systems, including the dissolved and suspended
 14 solids under seasonal flow conditions and the collection of
 15 sufficient data for the mine site and surrounding areas, so
 16 that cumulative impacts of all anticipated mining in the
 17 area upon the hydrology of the area and particularly upon
 18 water availability can be made. However, this determination
 19 is not required until such time as hydrologic information on
 20 the general area prior to mining is made available from an
 21 appropriate federal or state agency. The permit may not be
 22 approved until such information is available and is
 23 incorporated into the application.

24 (m) a coal conservation plan; and

25 (n) such other or further information as the

1 department may require.

2 (2) The application for a permit shall be accompanied
3 by two copies of all maps meeting the requirements of the
4 subsections below. The maps shall:

5 (a) identify the area to correspond with the
6 application;

7 (b) show any adjacent deep mining or surface mining
8 and the boundaries of surface properties and names of owners
9 of record of the affected area and within 1,000 feet of any
10 part of the affected area;

11 (c) show the names and locations of all streams,
12 creeks, or other bodies of water, roads, buildings,
13 cemeteries, oil and gas wells, and utility lines on the area
14 of land affected and within 1,000 feet of such area;

15 (d) show by appropriate markings the boundaries of the
16 area of land affected, any cropline of the seam or deposit
17 of mineral to be mined, and the total number of acres
18 involved in the area of land affected;

19 (e) show the date on which the map was prepared and
20 the north point;

21 (f) show the final surface and underground water
22 drainage plan on and away from the area of land affected.
23 This plan shall indicate the directional and volume flow of
24 water, constructed drainways, natural waterways used for
25 drainage, and the streams or tributaries receiving the

1 discharge.

2 (g) show the proposed location of waste or refuse
3 area;

4 (h) show the proposed location of temporary subsoil
5 and topsoil storage area;

6 (i) show the proposed location of all facilities;

7 (j) show the location of test boring holes;

8 (k) show the surface location lines of any geologic
9 cross sections which have been submitted;

10 (l) show a listing of plant varieties encountered in
11 the area to be affected and their relative dominance in the
12 area, together with an enumeration of tree varieties and the
13 approximate number of each variety occurring per acre on the
14 area to be affected, and the locations generally of the
15 various kinds and varieties of plants, including but not
16 limited to grasses, shrubs, legumes, forbs, and trees;

17 (m) be certified as follows: "I, the undersigned,
18 hereby certify that this map is correct and shows to the
19 best of my knowledge and belief all the information required
20 by the mining laws of this state." The certification shall
21 be signed and notarized. The department may reject a map as
22 incomplete if its accuracy is not so attested.

23 (n) contain such other or further information as the
24 department may require.

25 (3) If the department finds that the probable total

1 annual production at all locations of any strip- or
 2 underground-coal-mining operation applied for will not
 3 exceed 100,000 tons, any determination of probable
 4 hydrologic consequences that the department requires and the
 5 statement of result of test borings or core samplings shall,
 6 upon written request of the operator, be performed by a
 7 qualified public or private laboratory designated by the
 8 department. The department shall assume the cost of the
 9 determination and statement to the extent that it has
 10 received funds for this purpose.

11 (4) In addition to the information and maps required
 12 above, each application for a permit shall be accompanied by
 13 detailed plans or proposals showing the method of operation,
 14 the manner, time or distance, and estimated cost for
 15 backfilling, subsidence stabilization, water control,
 16 grading work, highwall reduction, topsoiling, planting,
 17 revegetating, and a reclamation plan for the area affected
 18 by the operation, which proposals shall meet the
 19 requirements of this part and rules adopted under this part.
 20 The reclamation plan shall address the life of the operation
 21 and indicate the size, sequence, and the timing of the
 22 subareas for which it is anticipated that individual permits
 23 will be sought.

24 (5) Each applicant for a coal mining permit shall
 25 submit as part of the application a certificate issued by an

1 insurance company authorized to do business in the state
 2 certifying that the applicant has in force for the strip- or
 3 underground-mining and reclamation operations for which the
 4 permit is sought a public liability insurance policy, or
 5 evidence that the applicant has satisfied other state or
 6 federal self-insurance requirements. This policy shall
 7 provide for personal injury and property damage protection
 8 in an amount adequate to compensate any persons damaged as a
 9 result of strip- or underground-coal-mining and reclamation
 10 operations, including use of explosives, and entitled to
 11 compensation under applicable provisions of state law. The
 12 permittee must maintain the policy in full force and effect
 13 during the term of the permit and any renewal until all
 14 reclamation operations have been completed.

15 (6) Each applicant for a strip-mining or
 16 underground-mining reclamation permit shall file a copy of
 17 his application for public inspection with the clerk and
 18 recorder at the courthouse of the county where the major
 19 portion of mining is proposed to occur."

20 Section 26. Section 82-4-239, MCA, is amended to read:
 21 "82-4-239. Reclamation by board. (1) The board may
 22 have reclamation work done by its own employees or by
 23 employees of other governmental agencies, soil conservation
 24 districts, or through contracts with qualified persons. The
 25 board may construct, operate, and maintain plants for the

1 control and treatment of water pollution resulting from mine
2 drainage.

3 (2) Any funds or any public works programs available
4 to the board shall be used and expended to reclaim and
5 rehabilitate lands that have been subjected to strip mining
6 or underground mining that have not been reclaimed and
7 rehabilitated in accordance with the standards of this part.
8 The board shall cooperate with federal, state, and private
9 agencies to engage in cooperative projects under this
10 section.

11 (3) Agents, employees, or contractors of the
12 department may enter upon any land for the purpose of
13 conducting studies or exploratory work to determine whether
14 such land has been strip- or underground-mined and not
15 reclaimed and rehabilitated in accordance with the
16 requirements of this part and to determine the feasibility
17 of restoration, reclamation, abatement, control, or
18 prevention of any adverse effects of past coal-mining
19 practices. Upon request of the commissioner, the attorney
20 general shall bring an injunctive action to restrain any
21 interference with the exercise of the right to enter and
22 inspect granted in this subsection.

23 (4) If the department makes a finding of fact that:

24 (a) land or water resources have been adversely
25 affected by past coal-mining practices; and

1 (b) the adverse effects are at a stage where in the
2 public interest action to restore, reclaim, abate, control,
3 or prevent should be taken; and

4 (c) the owners of the land or water resources where
5 entry must be made to restore, reclaim, abate, control, or
6 prevent the adverse effects of past coal-mining practices
7 are not known or readily available or the owners will not
8 give permission for the department or its agents, employees,
9 or contractors to enter upon such property to restore,
10 reclaim, abate, control, or prevent the adverse effects of
11 past coal-mining practices;

12 then agents, employees, or contractors of the
13 department, after giving notice by mail to the owner, if
14 known, ~~and any purchaser under contract for deed, if known,~~
15 or, if not ~~neither~~ is known, by posting notice upon the
16 premises and advertising in a newspaper of general
17 circulation in the county in which the land lies, may enter
18 upon property adversely affected by past coal-mining
19 practices and any other property necessary for access to
20 such mineral property to do all things necessary or
21 expedient to restore, reclaim, abate, control, or prevent
22 the adverse effects of past coal-mining practices. This act
23 is not an act of condemnation of property or of trespass but
24 rather an exercise of the power granted by sections 1 and 2,
25 Article IX of the Montana constitution.

1 (5) (a) Within 6 months after the completion of
 2 projects to restore, reclaim, abate, control, or prevent
 3 adverse effects of past coal-mining practices on privately
 4 owned land, the department shall itemize the money so
 5 expended and may file a statement thereof in the office of
 6 the clerk and recorder of the county in which the land lies,
 7 together with a notarized appraisal by an independent
 8 appraiser of the value of the land before the restoration,
 9 reclamation, abatement, control, or prevention of adverse
 10 effects of past coal-mining practices if the money so
 11 expended shall result in a significant increase in property
 12 value. Such statement constitutes a lien upon the land. The
 13 lien may not exceed the amount determined by the appraisal
 14 to be the increase in the market value of the land as a
 15 result of the restoration, reclamation, abatement, control,
 16 or prevention of the adverse effects of past coal-mining
 17 practices. No lien may be filed against the property of any
 18 person, in accordance with this subsection, who owned the
 19 surface prior to May 2, 1977, and who neither consented to
 20 nor participated in nor exercised control over the mining
 21 operation which necessitated the reclamation performed under
 22 this part.

23 (b) The landowner may petition within 60 days of the
 24 filing of the lien to determine the increase in the market
 25 value of the land as a result of the restoration,

1 reclamation, abatement, control, or prevention of the
 2 adverse effects of past coal-mining practices. The amount
 3 reported to be the increase in value of the premises
 4 constitutes the amount of the lien and shall be recorded
 5 with the statement herein provided. Any party aggrieved by
 6 the decision may appeal as provided by law.

7 (c) The lien provided in this section shall be
 8 recorded at the office of the county clerk and recorder. The
 9 statement constitutes a lien upon the land as of the date of
 10 the expenditure of the money and has priority as a lien
 11 second only to the lien of real estate taxes imposed upon
 12 the land.

13 (6) The board may acquire the necessary property by
 14 gift or purchase or, if the property cannot be acquired by
 15 gift or purchase at a reasonable cost, proceedings may be
 16 instituted in the manner provided in Title 70, chapter 30,
 17 against all nonaccepting landholders if:

18 (a) the property is necessary for successful
 19 reclamation;

20 (b) the acquired land after restoration, reclamation,
 21 abatement, control, or prevention of the adverse effects of
 22 past coal-mining practices will serve recreation and
 23 historic purposes or conservation and reclamation purposes
 24 or provide open space benefits; and

25 (c) permanent facilities such as treatment plants or

1 relocated stream channels will be constructed on the land
 2 for the restoration, reclamation, abatement, control, or
 3 prevention of the adverse effects of past strip- or
 4 underground-coal-mining practices; or acquisition of coal
 5 refuse disposal sites and all coal refuse thereon will serve
 6 the purposes of this part in that public ownership is
 7 desirable to meet emergency situations and prevent
 8 recurrences of the adverse effects of past coal-mining
 9 practices."

10 Section 27. Section 82-10-503, MCA, is amended to
 11 read:

12 "82-10-503. Notice of drilling operations. In addition
 13 to the requirements for geophysical exploration activities
 14 governed by Title 82, chapter 1, part 1, the oil and gas
 15 developer or operator shall give the surface owner and any
 16 purchaser under contract for deed written notice of the
 17 drilling operations that he plans to undertake. This notice
 18 shall be given to the record surface owner and any purchaser
 19 under contract for deed at his address their addresses as
 20 shown by the records of the county clerk and recorder at the
 21 time the notice is given. This notice shall sufficiently
 22 disclose the plan of work and operations to enable the
 23 surface owner to evaluate the effect of drilling operations
 24 on the surface owner's use of the property."

25 SECTION 28. SECTION 85-2-232, MCA, IS AMENDED TO READ:

1 "85-2-232. Availability of preliminary decree. (1) The
 2 water judge shall send a copy of the preliminary decree to
 3 the department, and the water judge shall serve by mail a
 4 notice of availability of the preliminary decree to each
 5 person who has filed a claim of existing right and to the
 6 purchaser under contract for deed, as defined in [section
 7 1], of property in connection with which a claim of existing
 8 right has been filed, or, in the Powder River Basin, to each
 9 person who has filed a declaration of an existing right. The
 10 water judge shall enclose with the notice an abstract of the
 11 disposition of such person's claimed or declared existing
 12 right. The notice of availability shall also be served upon
 13 those issued or having applied for and not having been
 14 denied a beneficial water use permit pursuant to Title 85,
 15 chapter 2, part 3, those granted a reservation pursuant to
 16 85-2-316, or other interested persons who request service of
 17 the notice from the water judge. The clerk or person
 18 designated by the water judge to mail the notice shall make
 19 a general certificate of mailing certifying that a copy of
 20 the notice has been placed in the United States mail,
 21 postage prepaid, addressed to each party required to be
 22 served notice of the preliminary decree. Such certificate
 23 shall be conclusive evidence of due and legal notice of
 24 entry of decree.

25 (2) Any person may obtain a copy of the preliminary

1 decree upon payment of a fee of \$20 or the cost of printing,
 2 whichever is greater, to the water judge."

3 ~~SECTION 29. SECTION 85-2-307, MCA, IS AMENDED TO READ:~~

4 "85-2-307. Notice of application. (1) (a) Upon
 5 receipt of a proper application for a permit, the department
 6 shall prepare a notice containing the facts pertinent to the
 7 application and shall publish the notice in a newspaper of
 8 general circulation in the area of the source once a week
 9 for 3 consecutive weeks.

10 (b) Before the last date of publication, the
 11 department shall also serve the notice by first-class mail
 12 upon:

13 (i) an appropriator of water or applicant for or
 14 holder of a permit who, according to the records of the
 15 department, may be affected by the proposed appropriation; *
 16 ~~notice shall also be served upon;~~

17 ~~(ii) any purchaser under contract for deed, as defined~~
 18 ~~in [section 11] of property that, according to the records~~
 19 ~~of the department, may be affected by the proposed~~
 20 ~~appropriation; and~~

21 (iii) any public agency that has reserved waters in the
 22 source under 85-2-316.

23 (c) The department may, in its discretion, also serve
 24 notice upon any state agency or other person the department
 25 feels may be interested in or affected by the proposed

1 appropriation.

2 (d) The department shall file in its records proof of
 3 service by affidavit of the publisher in the case of notice
 4 by publication and by its own affidavit in the case of
 5 service by mail.

6 (2) The notice shall state that by a date set by the
 7 department (not less than 30 days or more than 60 days after
 8 the last date of publication) persons may file with the
 9 department written objections to the application.

10 (3) The requirements of subsections (1) and (2) of
 11 this section do not apply if the department finds, on the
 12 basis of information reasonably available to it, that the
 13 appropriation as proposed in the application will not
 14 adversely affect the rights of other persons."

15 Section 30. Section 85-15-202, MCA, is amended to
 16 read:

17 "85-15-202. Examination and report -- subsequent
 18 actions. (1) It is the duty of the persons so appointed to
 19 make a thorough examination of the dam or reservoir. If,
 20 upon examination, they find that persons or property are
 21 endangered by reason of the dam or reservoir and it is not
 22 secure against the pressure of the water confined therein or
 23 the water that may be confined therein or against rains and
 24 freshets that may occur and if they find that the same is
 25 secure against the occurrence of the casualties mentioned or

1 any of them, they must make a report in writing to the
2 judge, which must be entered of record as a proceeding in
3 court.

4 (2) If, upon such examination as to the safety of such
5 reservoir, they consider such reservoir insufficient and
6 insecure, they must further inquire whether the danger to be
7 apprehended is imminent, and if they are of the opinion that
8 such danger is imminent and that destruction of life or
9 property may result from delay, it is their duty forthwith
10 to draw from such reservoir the waters therein or so much
11 thereof as will insure safety, and they must make return of
12 their action to the judge. In the discharge of such duties,
13 the persons so acting are peace officers.

14 (3) If, upon examination, they are of opinion that
15 such dam or reservoir is insecure and insufficient but that
16 the danger therefrom is not immediate or imminent, they must
17 so state in their report to the judge. The judge must
18 thereupon cause a copy of the report to be served on the
19 owner ~~or of the property,~~ the person in charge thereof, and
20 ~~any purchaser of the property under contract for deeds,~~ with
21 a notice requiring him to make the same secure or to draw
22 the water therefrom without delay. Unless such order is
23 complied with after hearing, the judge may order the sheriff
24 to draw from said dam or reservoir the waters thereof."

-End-

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HOUSE BILL NO. 812
INTRODUCED BY SHONTZ, YARDLEY

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT WHEN IT IS REQUIRED THAT LEGAL NOTICE BE GIVEN TO THE OWNER OF REAL PROPERTY NOTICE MUST ALSO BE GIVEN TO A PURCHASER OF THE PROPERTY UNDER A CONTRACT FOR DEED; AMENDING SECTIONS 7-2-4312, 7-3-1309, 7-3-4431, 7-3-4448, 7-13-2304, 7-14-4109, 7-15-4215, 7-22-2406, 7-22-2446, 15-7-102, 15-7-208, 15-15-101, 15-18-202, 15-23-102, 50-62-103, 69-4-317, 69-4-325, 69-4-353, 70-30-203, 76-3-605, 80-7-114, 80-7-206, 82-2-224, 82-4-222, 82-4-239, 82-10-503, ~~85-2-232~~, ~~85-2-307~~, AND 85-15-202, MCA."

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

~~NEW SECTION.~~ Section 1. Notice to purchaser of property under contract for deed. (1) As used in this section, "purchaser under contract for deed" means any person who:

(A) has entered into a contract with the record owner of real property in which it was agreed that the record owner will deliver the deed to the property to the purchaser when certain conditions have been met, such as completion of payments by the purchaser; AND

~~(B) HAS RECORDED THE CONTRACT OR AN ABSTRACT OF THE~~

THIRD READING

There are no changes on HB 812 second reading (Yellow). Please refer to it for complete text.

HB 812

March 21, 1983

SENATE STANDING COMMITTEE RPEORT
(Judiciary)

That House Bill No. 812 be amended as follows:

1. Title, line 7.

Following: "DEED"

Insert: "AND ANY ASSIGNEE OR SUCCESSOR OF SUCH A PURCHASER"

2. Page 1, line 18.

Following: "me ans"

Insert: ": (a)"

3. Page 1, line 20.

Strike: "(A)"

Insert: "(i)"

4. Page 1, line 25.

Strike: "(B)"

Insert: "(ii)"

5. Page 2.

Following: line 1

Insert: "(b) any assignee or successor of a person included under subsection (a), if such assignee or successor has also recorded the contract or an abstract of the contract in accordance with Title 70, chapter 21."

HOUSE BILL NO. 812

INTRODUCED BY SHONTZ, YARDLEY

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT WHEN IT IS REQUIRED THAT LEGAL NOTICE BE GIVEN TO THE OWNER OF REAL PROPERTY NOTICE MUST ALSO BE GIVEN TO A PURCHASER OF THE PROPERTY UNDER A CONTRACT FOR DEED ~~AND ANY ASSIGNEE OR SUCCESSOR DE SUCH A PURCHASER~~; AMENDING SECTIONS 7-2-4312, 7-3-1309, 7-3-4431, 7-3-4448, 7-13-2304, 7-14-4109, 7-15-4215, 7-22-2406, 7-22-2446, 15-7-102, 15-7-208, 15-15-101, 15-18-202, 15-23-102, 50-62-103, 69-4-317, 69-4-325, 69-4-353, 70-30-203, 76-3-605, 80-7-114, 80-7-206, 82-2-224, 82-4-222, 82-4-239, 82-10-503, ~~85-2-232, 85-2-307~~ AND 85-15-202, MCA."

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

~~NEW SECTION~~ Section 1. Notice to purchaser of property under contract for deed. (1) As used in this section, "purchaser under contract for deed" means:

(A) any person who:

~~(i)~~ has entered into a contract with the record owner of real property in which it was agreed that the record owner will deliver the deed to the property to the purchaser when certain conditions have been met, such as completion of payments by the purchaser; ~~AND~~

~~(B) HAS RECORDED THE CONTRACT OR AN ABSTRACT OF THE CONTRACT IN ACCORDANCE WITH TITLE 70, CHAPTER 21;~~

~~(B) ANY ASSIGNEE OR SUCCESSOR OF A PERSON INCLUDED UNDER SUBSECTION (A), IF SUCH ASSIGNEE OR SUCCESSOR HAS ALSO RECORDED THE CONTRACT OR AN ABSTRACT OF THE CONTRACT IN ACCORDANCE WITH TITLE 70, CHAPTER 21.~~

(2) When it is required by statute that legal notice be given to the owner of real property, the same notice must be given to a purchaser of that property under a contract for deed.

Section 2. Section 7-2-4312, MCA, is amended to read:

"7-2-4312. Resolution of intent by first-class city -- notice. When, in the judgment of any city council of a city of the first class expressed by a resolution duly and regularly passed and adopted, it will be to the best interest of such city and the inhabitants of any contiguous platted tracts or parcels of land or unplatted land for which a certificate of survey has been filed that the boundaries of such city shall be extended so as to include the same within the corporate limits thereof, the city clerk of such city shall:

(1) immediately notify in writing, addressed to the address to which tax notices are sent, all owners ~~and purchasers under contracts for deed~~ of property in the territory to be embraced; and

1 (2) cause a notice to be published in the newspaper
 2 published nearest such platted tracts or parcels of land or
 3 unplatted land for which a certificate of survey has been
 4 filed, at least once a week for 2 successive weeks."

5 Section 3. Section 7-3-1309, MCA, is amended to read:

6 "7-3-1309. Division of assessment. (1) There shall be
 7 in the department of finance a division of assessment, the
 8 head of which shall be the assessor. The assessor and his
 9 deputies shall have the powers, qualify in the manner, and
 10 perform the duties prescribed for county assessors and
 11 deputy assessors by general law.

12 (2) The assessor shall also be in charge of the
 13 preparation of all special assessments for public
 14 improvements, the giving of notice of such assessments to
 15 property owners ~~and purchasers of property under contracts~~
 16 ~~for deed~~, and the certification of all unpaid assessments to
 17 the director of finance."

18 Section 4. Section 7-3-4431, MCA, is amended to read:

19 "7-3-4431. Department of finance. (1) The duties of
 20 the director of finance shall include the keeping and
 21 supervision of all accounts and the custody of all public
 22 money of the municipality; the purchase, storage, and
 23 distribution of supplies needed by the various departments;
 24 the making and collection of special assessments; the
 25 issuance of licenses; the collection of license fees and

1 taxes; and such other duties as the commission may by
 2 ordinance require.

3 (2) He shall install and have supervision over the
 4 accounts of all the departments and offices of the
 5 municipality. Whenever practicable the books of financial
 6 accounts shall be kept in the office of the department of
 7 finance. He shall require daily departmental reports of
 8 money receipts and the disposition thereof and shall require
 9 of each, in such form as may be prescribed, current
 10 financial and operating statements exhibiting each
 11 transaction and the cost thereof. Upon the death,
 12 resignation, removal or expiration of the term of any
 13 officer, he shall examine the accounts of such officer and
 14 report his findings to the city manager.

15 (3) He shall have charge of the preparation and
 16 certification of all special assessments for public
 17 improvements, the mailing of notices of such assessments to
 18 property owners ~~and purchasers of property under contracts~~
 19 ~~for deed~~ and all other duties connected therewith, the
 20 collection of such assessments as are payable directly to
 21 the municipality, and the preparation and certification of
 22 all unpaid assessments to the county treasurer for
 23 collection. He shall issue all licenses and collect all fees
 24 therefor and shall pay the same into the treasury in the
 25 manner provided by ordinance.

(4) The director of finance shall be the custodian of all public money of the municipality and all other public money coming into his hands. He shall keep and preserve such money in the place or places determined by ordinance or by the provisions of any law applicable thereto. Except as otherwise provided in this part or part 43, he shall collect, receive, and disburse all public money of the municipality upon warrant and shall also receive and disburse all other public money coming into his hands in pursuance of such regulations as may be prescribed by the authorities having lawful control over such funds."

Section 5. Section 7-3-4448, MCA, is amended to read:

"7-3-4448. Vacating or changing name of street. (1)

The commission, in vacating any street or part of a street or changing the name of any street, may include in one ordinance the change of name or the vacation or narrowing of more than one street, alley, or avenue. Before vacating any street or part thereof or narrowing any street, the commission shall first pass a resolution declaring its intention to do so.

(2) The city manager shall serve notice of the resolution, in the manner that service of summons is required to be made in civil actions, upon all persons whose ~~who are owners or purchasers under contracts for deed of~~ property ~~that~~ abuts upon the portion of the street affected

by the proposed vacation or narrowing and shall publish notice once in one daily newspaper of general circulation in the municipality if there is one or if not, once in one weekly newspaper of like circulation. The notice shall state the time and place at which objections will be heard.

(3) Unless at least 51% of the affected property owners object to the proposed vacation or narrowing, the commission may by ordinance declare such vacation or narrowing. The order of the commission vacating or narrowing a street or alley which has been dedicated to public use by the proprietor, to the extent that it is vacated or narrowed, operates as a revocation of the acceptance thereof by the commission, but the right-of-way and easement therein of any lot owner is not impaired thereby."

Section 6. Section 7-13-2304, MCA, is amended to read:

"7-13-2304. Notice of intention to levy tax. (1) When the written estimate of the amount of money required has been delivered to the board of county commissioners, said board shall give notice of its intention to levy and collect a tax sufficient for the payment thereof.

(2) Such notice shall be given:

(a) by posting notice thereof in five public places within the county and within the boundaries of the lands upon which the tax is to be levied;

(b) by publishing a copy of the notice once each week

1 for 2 consecutive weeks in a newspaper published in each
 2 county wherein the district is located; and

3 (c) by forwarding, by regular first-class mail or
 4 registered or certified mail at least 10 days prior to the
 5 hearing provided for in 7-13-2306(4), a copy of the notice
 6 addressed to the owners and the purchasers under contracts
 7 for deed of taxable real property within the district as
 8 shown by the current assessment book on file in the office
 9 of the assessor of the county or counties the boundaries of
 10 which include taxable real property of the district."

11 Section 7. Section 7-14-4109, MCA, is amended to read:

12 "7-14-4109. Power to order certain improvements
 13 without creation of special improvement district. (1)
 14 Without the formation of a special improvement district, the
 15 city council may order sidewalks, curbs, or gutters
 16 constructed in front of any lot or parcel of land and may
 17 order alley approaches constructed or replaced adjacent to
 18 any lot or parcel of land.

19 (2) Whenever the council orders any such sidewalk,
 20 curb, or gutter constructed or any such alley approach
 21 constructed or replaced, the order shall be entered upon the
 22 minutes of the council and shall name the street along which
 23 the sidewalk, curb, or gutter is to be constructed or along
 24 which the alley approach is to be constructed or replaced.

25 (3) After the making of such order, written notice

1 thereof shall be given to the owner or agent of the owner
 2 and to any purchaser under contract for deed of such
 3 property or the owners or agents of all adjacent owners
 4 having access to their properties by the alley approach, as
 5 appropriate, in such manner as the council may direct.

6 (4) If the owner or agent of the owner of such lot or
 7 parcel of land or if the owners or agents of all adjacent
 8 owners having access to their property by the alley approach
 9 fail or neglect for a period of 30 days after the date of
 10 service of the notice to cause such sidewalk, curb, or
 11 gutter to be constructed or to cause such alley approaches
 12 to be constructed or replaced, the city may construct or
 13 cause the sidewalk, curb, or gutter to be constructed or may
 14 construct or cause the alley approach to be constructed and
 15 shall assess the cost thereof, including engineering costs
 16 and the costs enumerated in 7-12-4121 and 7-12-4169, against
 17 the property in front of which the same is constructed or
 18 against the lots or parcels of land having access via the
 19 constructed alley approaches. The collection of the assessed
 20 costs shall be as provided in 7-12-4181 through 7-12-4191.

21 (5) (a) When any sidewalk, curb, or gutter or alley
 22 approach is constructed by or under direction of the city
 23 council, payment for the construction shall be made by
 24 special warrants in such form as may be prescribed by
 25 ordinance and drawn against a fund to be known as the

1 special sidewalk, curb, and gutter fund or the special alley
2 approach fund, as appropriate, and the council may provide
3 for the payment of interest annually.

4 (b) The warrants drawn on the special alley approach
5 fund shall bear interest at a rate of up to 6% a year."

6 Section 8. Section 7-15-4215, MCA, is amended to read:

7 "7-15-4215. Notice of hearing on urban renewal plan.

8 (1) The notice required by 7-15-4214(1) shall be given by
9 publication once each week for 2 consecutive weeks, not less
10 than 10 or more than 30 days prior to the date of the
11 hearing, in a newspaper having a general circulation in the
12 urban renewal area of the municipality and by mailing a
13 notice of such hearing, not less than 10 days prior to the
14 date of the hearing, to the persons whose names appear on
15 the county treasurer's tax roll as the owners or reputed
16 owners, or purchasers under contracts for deed of the
17 property, at the address shown on the tax roll.

18 (2) The notice shall describe the time, date, place,
19 and purpose of the hearing, shall generally identify the
20 urban renewal area affected, and shall outline the general
21 scope of the urban renewal plan under consideration."

22 Section 9. Section 7-22-2406, MCA, is amended to read:

23 "7-22-2406. Notice of hearing on petition to create
24 district. (1) If addresses are known, the commissioners
25 shall cause notice of the hearing provided for in 7-22-2403

1 to be mailed to each nonresident owner and purchaser under
2 contract for deed of taxable real and personal property
3 within the proposed district.

4 (2) The commissioners shall cause notice to be posted
5 in three public places within the district. Whenever the
6 district is partly in one county and partly in another
7 county, notice must be posted in each county but posting
8 need not be in three places in each county.

9 (3) The commissioners shall also cause notice to be
10 given of the time and place of the hearing and the methods
11 of objection by publication in a newspaper within or nearest
12 to the district and, if the district is partly in one county
13 and partly in another county, in a newspaper in each county,
14 if such newspaper exists. The publication must be for two
15 weekly issues.

16 (4) Posting and first publication shall be at least 10
17 days before the hearing."

18 Section 10. Section 7-22-2446, MCA, is amended to
19 read:

20 "7-22-2446. Hearing on petition for dissolution --
21 notice. Upon the filing of a petition for dissolution, the
22 board of county commissioners shall set a time for hearing
23 the petition and shall cause notice thereof to be mailed to
24 all nonresident property owners and purchasers under
25 contracts for deed within the district whose addresses are

1 known, to be posted in at least three public places within
 2 the district, and to be published at least once in the
 3 official newspaper of the county published in the district,
 4 the posting and publication to be at least 10 days before
 5 the date of hearing. Whenever the district is partly in one
 6 county and partly in another county, notice must be posted
 7 in each county, but posting need not be in three places in
 8 each county, and notice must be published in the official
 9 newspaper of each county."

10 Section 11. Section 15-7-102, MCA, is amended to read:

11 "15-7-102. Notice of classification and appraisal to
 12 owners -- appeals. (1) It shall be the duty of the
 13 department of revenue to cause to be mailed to each owner
 14 ~~and purchaser under contract for deed~~ a notice of the
 15 classification of the land owned ~~or being purchased~~ by him
 16 and the appraisal of the improvements thereon.

17 (2) If the owner of any land and improvements is
 18 dissatisfied with the appraisal or classification of his
 19 land or improvements, he may submit his objection in writing
 20 to the department's agent. The department shall give
 21 reasonable notice to such taxpayer of the time and place of
 22 hearing and hear any testimony or other evidence which the
 23 taxpayer may desire to produce at such time and afford the
 24 opportunity to other interested persons to produce evidence
 25 at such hearing. Thereafter, the department shall determine

1 the true and correct appraisal and classification of such
 2 land or improvements and forthwith notify the taxpayer of
 3 its determination. In the notification, the department must
 4 state its reasons for revising the classification or
 5 appraisal. When so determined, the land shall be classified
 6 and improvements appraised in the manner ordered by the
 7 department.

8 (3) Whether a hearing as provided in subsection (2) is
 9 held or not, the department or its agent may not adjust an
 10 appraisal or classification upon taxpayer's objection
 11 unless:

12 (a) the taxpayer has submitted his objection in
 13 writing; and

14 (b) the department or its agent has stated its reason
 15 in writing for making the adjustment.

16 (4) A taxpayer's written objection to a classification
 17 or appraisal and the department's notification to the
 18 taxpayer of its determination and the reason for that
 19 determination are public records. Each county appraiser
 20 shall make such records available for inspection during
 21 regular office hours.

22 (5) If any property owner shall feel aggrieved at the
 23 classification and/or the appraisal so made by the
 24 department, he shall have the right to appeal to the county
 25 tax appeal board and then to the state tax appeal board,

1 whose findings shall be final subject to the right of review
2 in the proper court or courts."

3 Section 12. Section 15-7-208, MCA, is amended to read:

4 "15-7-208. Reclassification by department. The
5 department of revenue or its agent may reclassify land as
6 nonagricultural upon giving due notice to the property owner
7 ~~or any purchaser under contract for deed~~ under the
8 provisions of 15-7-102. Upon notice of a change in
9 classification of land from agricultural to another use, the
10 property owner may petition the department to reclassify the
11 land as agricultural by completing a form prescribed by the
12 department and by producing whatever information is
13 necessary to prove that the subject land meets the
14 definition of agricultural land embodied in 15-7-202."

15 Section 13. Section 15-15-101, MCA, is amended to
16 read:

17 "15-15-101. County tax appeal board -- meetings and
18 compensation. (1) The board of county commissioners of each
19 county shall appoint a three-member county tax appeal board,
20 with the members to serve staggered terms of 3 years each.
21 The members of each county tax appeal board shall be
22 residents of the county in which they serve. They shall
23 receive compensation of \$25 a day and travel expenses as
24 provided for in 2-18-501 through 2-18-503, as amended, only
25 when the county tax appeal board is in session to hear

1 taxpayers' appeals from property tax assessments or when
2 they are attending meetings called by the state tax appeal
3 board. Travel expenses and compensation shall be paid from
4 the appropriation to the state tax appeal board. Office
5 space and equipment for the county tax appeal boards shall
6 be furnished by the county. All other incidental expenses
7 shall be paid from the appropriation of the state tax appeal
8 board.

9 (2) The county tax appeal board must meet on the third
10 Monday of April in each year to hear protests concerning
11 assessments made by the department of revenue. It must
12 continue in session for that purpose from time to time until
13 the business of hearing protests is disposed of, but, except
14 as provided in 15-2-201, not later than 60 days after the
15 department of revenue or its agent:

16 (a) has mailed notice of classification and appraisal
17 to all property owners ~~and purchasers under contracts for~~
18 ~~deed~~ as required in 15-7-102; and

19 (b) has notified the county tax appeal board that
20 classification and appraisal notices have been mailed to all
21 property owners ~~and purchasers under contracts for deed~~.

22 (3) In connection with any such appeal, the county tax
23 appeal board may change any assessment or fix the assessment
24 at some other level. The county clerk shall publish a notice
25 to taxpayers, giving the time the county tax appeal board

1 will meet to hear protests concerning assessments and the
 2 latest date the county tax appeal board may take
 3 applications for such hearings. The notice shall be
 4 published in a newspaper if any is printed in the county or,
 5 if none, then in such manner as the board may direct. The
 6 notice shall be published at least 7 days prior to the first
 7 meeting of the county tax appeal board.

8 (4) Challenges to a department of revenue rule
 9 governing the assessment of property or to an assessment
 10 procedure shall apply only to the taxpayer bringing the
 11 challenge and may not apply to all similarly situated
 12 taxpayers unless an action is brought in the district court
 13 as provided in 15-2-307 through 15-2-310."

14 Section 14. Section 15-18-202, MCA, is amended to
 15 read:

16 "15-18-202. Notice of application for tax deed. (1)
 17 The purchaser of property sold for delinquent taxes or his
 18 assignee must, at least 60 days previous to the expiration
 19 of the time for redemption or at least 60 days before he
 20 applies for a deed, serve upon the owner of the property
 21 purchased, if known, ~~any purchaser of the property under~~
 22 ~~contract for deed, if known,~~ and upon the person occupying
 23 the property, if the said property is occupied, and if the
 24 records in the office of the county clerk and recorder show
 25 an unreleased mortgage or mortgages upon the property

1 purchased, upon the mortgagee or mortgagees named in said
 2 mortgage or mortgages or, if assigned, upon the assignee or
 3 assignees of said mortgage or mortgages, a written notice
 4 stating that said property or a portion thereof has been
 5 sold for delinquent taxes, giving the date of sale, the
 6 amount of property sold, the amount for which it was sold,
 7 the amount due, and the time when the right of redemption
 8 will expire or when the purchaser will apply for a tax deed.
 9 The owner of the property or the mortgagee or the assignee
 10 of said mortgagee has the right of redemption indefinitely,
 11 until such notice has been given and the deed applied for,
 12 upon the payment of fees, percentages, penalties, and costs
 13 required by law.

14 (2) Notice of ~~to~~ any owner, ~~purchaser of property~~
 15 ~~under contract for deed,~~ mortgagee, or assignee of mortgagee
 16 shall be given by registered or certified letter addressed
 17 to such ~~owner, purchaser,~~ mortgagee, or assignee at the
 18 post-office address of said owner, ~~purchaser,~~ mortgagee, or
 19 assignee as disclosed by the mortgage records in the office
 20 of the county clerk and recorder. In case of unoccupied
 21 property or a mining claim, such notice must be by
 22 registered or certified mail deposited in the post office,
 23 addressed to any known owner residing in or outside of said
 24 county, with the postage thereon prepaid, at least 60 days
 25 before the expiration of the time for redemption or at least

1 60 days before the purchaser applies for such tax deed, in
2 addition to notice to the mortgagee or assignee of mortgagee
3 in the manner and as hereby is provided.

4 (3) In all cases where the post-office address of the
5 owner, ~~purchaser~~, mortgagee, or assignee is unknown, the
6 applicant shall publish once a week for 2 successive weeks
7 in a newspaper published in the county where the property is
8 situated a notice substantially in the following form:

9 Notice of Application for Tax Deed

10 Notice is hereby given that the undersigned will on the
11 day of, 19..., apply to the county treasurer
12 of county for a tax deed to the following described
13 property, to wit:

14 (Describe property)

15 Amount due \$.....

16 Date

17(Applicant)

18 (4) The first publication of such notice must be made
19 at least 60 days before the date of redemption or
20 application for said deed.

21 (5) In all cases due proof of service of notice in
22 whatever manner given, supported by the affidavit required
23 by law, must be filed immediately with the clerk and
24 recorder of the county in which the property is situated and
25 be kept as a permanent file in his office, and such proof of

1 notice when so filed shall be prima facie evidence of the
2 sufficiency of the notice."

3 Section 15. Section 15-23-102, MCA, is amended to
4 read:

5 "15-23-102. Notice of assessment -- opportunity for
6 conference -- appeal. After assessing property under
7 15-23-101, the department shall notify the owner and any
8 purchaser under contract for deed of such property, in
9 writing, of the assessed value it has determined. Within 20
10 days following notification, the taxpayer may demand a
11 review of the validity of the department's assessment. The
12 department shall conduct an assessment review conference,
13 which is not subject to the contested case procedures of the
14 Montana Administrative Procedure Act. However, a party has
15 the right of discovery prior to any assessment revision
16 review conference. Upon consideration following such
17 conference, the department may revise the assessment.
18 Appeals from the final decision may be taken to the state
19 tax appeal board."

20 Section 16. Section 50-62-103, MCA, is amended to
21 read:

22 "50-62-103. Service of order to repair or demolish
23 structure. (1) If the state fire marshal, a deputy state
24 fire marshal, or any officer mentioned in 50-62-101, upon an
25 examination or inspection, finds that a building or other

1 structure which for want of proper repair or by reason of
 2 age and dilapidated condition, defective or poorly installed
 3 electric wiring or equipment, defective chimneys, defective
 4 gas connections or defective heating apparatus or for any
 5 other cause or reason is especially liable to fire and is so
 6 situated as to endanger other buildings or property in the
 7 vicinity, he shall order the structure to be repaired, torn
 8 down, or demolished and all materials removed and all
 9 dangerous conditions remedied.

10 (2) The order shall be in writing, shall recite the
 11 grounds therefor, and shall be filed in the office of the
 12 clerk of the district court of the county in which the
 13 building or structure ordered to be altered, repaired, or
 14 demolished is situated, and thereupon all further
 15 proceedings for the enforcement thereof shall be had in that
 16 court.

17 (3) A copy of the order filed as aforesaid, together
 18 with a written notice that it has been filed and will be put
 19 in force unless the owner, occupant, or tenant shall file
 20 with the clerk of the court his objections or answer thereto
 21 within the time specified in 50-62-104, shall be served upon
 22 the owner and any purchaser under contract for deed of the
 23 building or structure directed to be altered, repaired, or
 24 demolished. If there is a tenant occupying the building,
 25 service shall also be made upon him. Service shall be made

1 upon the owner and occupant, if there is one, personally
 2 either within or without the state.

3 (4) If the whereabouts of the owner or any purchaser
 4 under contract for deed is unknown and he cannot be
 5 ascertained by the state fire marshal by the exercise of
 6 reasonable diligence, then upon his filing in the office of
 7 the clerk of the district court his affidavit to this
 8 effect, service of the notice upon the owner or any
 9 purchaser under contract for deed may be made by the clerk
 10 of the district court by publication of it once in each week
 11 for 3 successive weeks in a newspaper printed and published
 12 in the county in which the building or structure is located
 13 and by posting a copy thereof in a conspicuous place upon
 14 the building or structure, and the service so made is
 15 complete upon the expiration of the publication period.
 16 Proof of service of the notice shall be filed in the office
 17 of the clerk of the district court within 5 days after the
 18 service thereof."

19 Section 17. Section 69-4-317, MCA, is amended to read:
 20 "69-4-317. Publication and distribution of notice. (1)
 21 Notice shall be published in full five times in a daily
 22 newspaper or once in a weekly newspaper of general
 23 circulation in the county, city, or town in which said
 24 district is located. A copy of such notice shall be mailed
 25 by the governing body to each owner and purchaser under

1 ~~contract for deed~~ of land within the proposed district whose
 2 property will be assessed for the cost of the improvement.
 3 The address to be used for said purpose shall be that last
 4 appearing on the real property assessment rolls of the
 5 county wherein said property is located.

6 (2) Mailed notices and the published notice shall
 7 state where a copy of the resolution will be available for
 8 inspection by any interested parties."

9 Section 18. Section 69-4-325, MCA, is amended to read:

10 "69-4-325. Notice of hearing on proposed assessments.

11 (1) After the preparation of the ordinance provided for in
 12 69-4-324, notice of a public hearing on the proposed
 13 assessments shall be given.

14 (2) Such notice shall be published one time in a
 15 newspaper in which the first notice of hearing was published
 16 at least 20 days before the date fixed for the hearing and
 17 shall be mailed by the governing body not less than 15 days
 18 prior to the date fixed for such hearing to each owner ~~and~~
 19 ~~purchaser under contract for deed~~ of real property whose
 20 property will be assessed for part of the cost of the
 21 improvement at the addresses appearing on the last completed
 22 real property assessment rolls of the county wherein said
 23 affected property is located.

24 (3) (a) Each notice shall state that at the specified
 25 time and place, the governing body will hold a public

1 hearing upon the proposed assessments and shall state that
 2 any owner of any property to be assessed pursuant to the
 3 ordinance will be heard on the question of whether his
 4 property will be benefited by the proposed improvement to
 5 the amount of the proposed assessment against his property
 6 and whether the amount assessed against his property
 7 constitutes more than his proper proportional share of the
 8 total cost of the improvement.

9 (b) The notice shall further state where a copy of the
 10 ordinance proposed to be adopted levying the assessments
 11 against all real property in the district will be on file
 12 for public inspection and that, subject to such changes and
 13 corrections therein as may be made by the governing body, it
 14 is proposed to adopt the ordinance at the conclusion of the
 15 hearing.

16 (c) The published notice shall describe the boundaries
 17 or area of the district with sufficient particularity to
 18 permit each owner of real property therein to ascertain that
 19 his property lies in the district. The mailed notice may
 20 refer to the district by name and date of creation and shall
 21 state the amount of the assessment proposed to be levied
 22 against the real property of the person to whom the notice
 23 is mailed and the terms of installment financing, if any. In
 24 the absence of fraud, the failure to mail any notice does
 25 not invalidate any assessment or any proceeding under this

1 part."

2 Section 19. Section 69-4-353, MCA, is amended to read:

3 "69-4-353. Conversion of facilities on public property
4 -- notice to landowners. (1) Upon completion of the
5 conversion of the overhead electric or communication
6 facilities on public lands and right-of-way to underground,
7 the public utility shall file a verified statement of the
8 costs of such conversion with the governing body.

9 (2) The governing body shall mail to each landowner
10 and purchaser of property under contract for deed a notice
11 stating that:

12 (a) service from the underground facilities is
13 available;

14 (b) the landowner has 60 days after the date of the
15 mailing of such notice to convert all overhead electric or
16 communication facilities providing service to any structure
17 or improvement located on his lot or parcel to underground
18 service facilities; and

19 (c) after the 60-day period following the date of the
20 mailing of the notice, the governing body will order the
21 public utility to disconnect and remove all overhead
22 electric and communication facilities providing service to
23 any structure or improvement within the area."

24 Section 20. Section 70-30-203, MCA, is amended to
25 read:

1 "70-30-203. Contents of complaint. The complaint must
2 contain:

3 (1) the name of the corporation, association,
4 commission, or person in charge of the public use for which
5 the property is sought, who must be styled plaintiff;

6 (2) the names of all owners, purchasers under
7 contracts for deed, mortgagees, and lienholders of record
8 and any other claimants of the property of record, if known,
9 or a statement that they are unknown, who must be styled
10 defendants;

11 (3) a statement of the right of plaintiff;

12 (4) if a right-of-way is sought, the complaint must
13 show the location, general route, and termini and must be
14 accompanied with a map thereof, so far as the same is
15 involved in the action or proceeding;

16 (5) a description of each piece of land sought to be
17 taken and whether the same includes the whole or only a part
18 of the entire parcel or tract. All parcels lying in the
19 county and required for the same public use may be included
20 in the same or separate proceedings, at the option of the
21 plaintiff, but the court may consolidate or separate them to
22 suit the convenience of the parties. When application for
23 the condemnation of a right-of-way for the purposes of
24 sewerage is made on behalf of a settlement or a town or a
25 county, the county commissioners of the county may be named

1 as plaintiff.

2 (5) If a sand, stratum, or formation suitable for use
3 as an underground natural gas storage reservoir is sought to
4 be appropriated, a description thereof and of the land in
5 which it is alleged to be contained and a description of all
6 other property and rights sought to be appropriated for use
7 in connection with the appropriation of the right to store
8 natural gas in and withdraw natural gas from such reservoir.
9 In addition, the complaint shall state facts showing that
10 the underground reservoir is one subject to appropriation by
11 plaintiff; also stating that the underground storage of
12 natural gas in the land sought to be appropriated is in the
13 public interest; that the underground reservoir is suitable
14 and practicable for natural gas storage; that the plaintiff
15 in good faith has been unable to acquire the rights sought
16 to be appropriated hereunder and a statement that the rights
17 and property sought to be appropriated are not prohibited by
18 law; and in addition, the complaint must be accompanied by a
19 certificate from the board of oil and gas conservation as
20 set forth in 82-10-304."

21 Section 21. Section 76-3-605, MCA, is amended to read:
22 "76-3-605. Hearing on preliminary plat. (1) The
23 governing body or its authorized agent or agency shall hold
24 a public hearing on the preliminary plat and shall consider
25 all relevant evidence relating to the public health, safety,

1 and welfare, including the environmental assessment, to
2 determine whether the plat should be approved, conditionally
3 approved, or disapproved by the governing body.

4 (2) When a proposed subdivision is also proposed to be
5 annexed to a municipality, the governing body of the
6 municipality shall hold joint hearings on the preliminary
7 plat and annexation whenever possible.

8 (3) Notice of such hearing shall be given by
9 publication in a newspaper of general circulation in the
10 county not less than 15 days prior to the date of the
11 hearing. The subdivider, and each property owner of record,
12 ~~and each purchaser under contract for deed of property~~
13 immediately adjoining the land included in the plat shall
14 also be notified of the hearing by registered or certified
15 mail not less than 15 days prior to the date of the hearing.

16 (4) When a hearing is held by an agent or agency
17 designated by the governing body, the agent or agency shall
18 act in an advisory capacity and recommend to the governing
19 body the approval, conditional approval, or disapproval of
20 the plat. This recommendation must be submitted to the
21 governing body in writing not later than 10 days after the
22 public hearing."

23 Section 22. Section 80-7-114, MCA, is amended to read:
24 "80-7-114. Removal of infected trees -- assessment of
25 costs. (1) If a person owning any orchard or nursery stock

1 infected or infested with any injurious insect pest or
 2 disease and which becomes a menace to the agricultural or
 3 fruit industry or a menace to ornamental trees, shrubs,
 4 plants, or vines fails to comply with the instructions of
 5 the department for the destruction or control of the
 6 injurious insect pest or disease or the destruction of the
 7 infested or infected orchard or nursery stock within the
 8 time specified by the department, the department may
 9 condemn, remove, or destroy the orchard or nursery stock or
 10 treat it with a proper remedy.

11 (2) If an owner fails to pay the cost of the removal,
 12 treatment, or destruction within 30 days after notice has
 13 been mailed to the owner at his last known post-office
 14 address and to any purchaser of the property under contract
 15 for deed at his last known post-office address, the cost
 16 shall become a lien on the land of the owner and shall be
 17 added by the county treasurer to the taxes upon the property
 18 and collected as other taxes."

19 Section 23. Section 80-7-206, MCA, is amended to read:

20 "80-7-206. Expenses of eradicating orchard diseases --
 21 collection as tax. (1) When, under the direction or rules of
 22 the department, any money is spent by it to eradicate any
 23 disease or insect pest from an orchard or other place where
 24 fruits are grown or kept, the department shall notify the
 25 owner of the orchard or premises and any purchaser of the

1 property under contract for deed in writing of the amount
 2 spent plus an additional charge of 25% of the amount spent.
 3 The notice shall be mailed to the last known address of the
 4 owner or purchaser under contract for deed.

5 (2) If the owner fails to pay the amount spent by the
 6 department plus the additional charge of 25% within 30 days
 7 of the time the notice is sent, the department shall file a
 8 verified statement with the county treasurer where the money
 9 was spent. The statement shall set forth the amount spent
 10 plus the additional charge of 25%, together with the correct
 11 description of the property on which the money was spent as
 12 it appears on the assessment roll of the county.

13 (3) The county treasurer shall add the amount
 14 contained in the statement to the taxes upon the property
 15 and shall collect them in the manner provided for collection
 16 of state and county taxes.

17 (4) The county treasurer in any county where any money
 18 is collected as provided in subsection (3) shall, on or
 19 before February 1 each year, remit the amount to the state
 20 treasurer, who shall deposit same to the credit of the
 21 general fund of the state."

22 Section 24. Section 82-2-224, MCA, is amended to read:

23 "82-2-224. Notice of condemnation -- filing of plat.
 24 Any party seeking to condemn property for open-pit mining
 25 purposes shall serve notice in writing on all owner's and

1 purchasers under contracts for deed of property within 300
 2 yards of the surface tract sought to be condemned or in lieu
 3 thereof shall file a plat showing the boundaries of the
 4 property sought to be condemned in the office of the county
 5 clerk and recorder, and the filing of said plat shall
 6 constitute notice to the owner or owners not personally
 7 served with written notice as herein provided."

8 Section 25. Section 82-4-222, MCA, is amended to read:

9 "82-4-222. Permit application. (1) An operator
 10 desiring a permit shall file an application which shall
 11 contain a complete and detailed plan for the mining,
 12 reclamation, revegetation, and rehabilitation of the land
 13 and water to be affected by the operation. Such plan shall
 14 reflect thorough advance investigation and study by the
 15 operator and shall include all known or readily discoverable
 16 past and present uses of the land and water to be affected
 17 and the approximate periods of such use and shall state:

18 (a) the location and area of land to be affected by
 19 the operation, with a description of access to the area from
 20 the nearest public highways;

21 (b) the names and addresses of the owners of record
 22 and any purchasers under contracts for deed of the surface
 23 of the area of land to be affected by the permit and the
 24 owners of record and any purchasers under contracts for deed
 25 of all surface area within one-half mile of any part of the

1 affected area;

2 (c) the names and addresses of the present owners of
 3 record and any purchasers under contracts for deed of all
 4 subsurface minerals in the land to be affected;

5 (d) the source of the applicant's legal right to mine
 6 the mineral on the land affected by the permit;

7 (e) the permanent and temporary post-office addresses
 8 of the applicant;

9 (f) whether the applicant or any person associated
 10 with the applicant holds or has held any other permits under
 11 this part and an identification of those permits;

12 (g) whether the applicant is in compliance with
 13 82-4-251 and, if known, whether every officer, partner,
 14 director, or any individual owning of record or
 15 beneficially, alone or with associates, 10% or more of any
 16 class of stock of the applicant is subject to any of the
 17 provisions of 82-4-251 and he shall so certify and whether
 18 any of the foregoing parties or persons have ever had a
 19 strip-mining or underground-mining license or permit issued
 20 by any other state or federal agency revoked or have ever
 21 forfeited a strip-mining or underground-mining bond or a
 22 security deposited in lieu of a bond and, if so, a detailed
 23 explanation of the facts involved in each case must be
 24 attached;

25 (h) the names and addresses of any persons who are

1 engaged in strip- or underground-mining activities on behalf
2 of the applicant;

3 (i) the annual rainfall and the direction and average
4 velocity of the prevailing winds in the area where the
5 applicant has requested a permit;

6 (j) the results of any test borings or core samplings
7 which the applicant or his agent has conducted on the land
8 to be affected, including the nature and the depth of the
9 various strata or overburden and topsoil, the quantities and
10 location of subsurface water and its quality, the thickness
11 of any mineral seam, an analysis of the chemical properties
12 of such minerals, including the acidity, sulphur content,
13 and trace mineral elements of any coal seam, as well as the
14 British thermal unit (Btu) content of such seam, and an
15 analysis of the overburden, including topsoil. If test
16 borings or core samplings are submitted, each permit
17 application shall contain two copies each of two sets of
18 geologic cross sections accurately depicting the known
19 geologic makeup beneath the surface of the affected land.
20 Each set shall depict subsurface conditions at such
21 intervals as the department requires across the surface and
22 shall run at a 90-degree angle to the other set. The
23 department may not require intervals of less than 500 feet.
24 Each cross section shall depict the thickness and geologic
25 character of all known strata beginning with the topsoil. In

1 addition, each application for an underground-mining permit
2 shall be accompanied by cross sections and maps showing the
3 proposed underground locations of all shafts, entries, and
4 haulageways or other excavations to be excavated during the
5 permit period. These cross sections shall also include all
6 existing shafts, entries, and haulageways.

7 (k) the name and date of a daily newspaper of general
8 circulation within the county in which the applicant will
9 prominently publish at least once a week for 4 successive
10 weeks after submission of the application an announcement of
11 his application for a strip-mining or underground-mining
12 permit and a detailed description of the area of land to be
13 affected should a permit be granted;

14 (l) a determination of the probable hydrologic
15 consequences of coal mining and reclamation operations, both
16 on and off the mine site, with respect to the hydrologic
17 regime, quantity and quality of water in surface- and
18 ground-water systems, including the dissolved and suspended
19 solids under seasonal flow conditions and the collection of
20 sufficient data for the mine site and surrounding areas, so
21 that cumulative impacts of all anticipated mining in the
22 area upon the hydrology of the area and particularly upon
23 water availability can be made. However, this determination
24 is not required until such time as hydrologic information on
25 the general area prior to mining is made available from an

1 appropriate federal or state agency. The permit may not be
2 approved until such information is available and is
3 incorporated into the application.

4 (m) a coal conservation plan; and

5 (n) such other or further information as the
6 department may require.

7 (2) The application for a permit shall be accompanied
8 by two copies of all maps meeting the requirements of the
9 subsections below. The maps shall:

10 (a) identify the area to correspond with the
11 application;

12 (b) show any adjacent deep mining or surface mining
13 and the boundaries of surface properties and names of owners
14 of record of the affected area and within 1,000 feet of any
15 part of the affected area;

16 (c) show the names and locations of all streams,
17 creeks, or other bodies of water, roads, buildings,
18 cemeteries, oil and gas wells, and utility lines on the area
19 of land affected and within 1,000 feet of such area;

20 (d) show by appropriate markings the boundaries of the
21 area of land affected, any cropline of the seam or deposit
22 of mineral to be mined, and the total number of acres
23 involved in the area of land affected;

24 (e) show the date on which the map was prepared and
25 the north point;

1 (f) show the final surface and underground water
2 drainage plan on and away from the area of land affected.
3 This plan shall indicate the directional and volume flow of
4 water, constructed drainways, natural waterways used for
5 drainage, and the streams or tributaries receiving the
6 discharge.

7 (g) show the proposed location of waste or refuse
8 area;

9 (h) show the proposed location of temporary subsoil
10 and topsoil storage areas;

11 (i) show the proposed location of all facilities;

12 (j) show the location of test boring holes;

13 (k) show the surface location lines of any geologic
14 cross sections which have been submitted;

15 (l) show a listing of plant varieties encountered in
16 the area to be affected and their relative dominance in the
17 area, together with an enumeration of tree varieties and the
18 approximate number of each variety occurring per acre on the
19 area to be affected, and the locations generally of the
20 various kinds and varieties of plants, including but not
21 limited to grasses, shrubs, legumes, forbs, and trees;

22 (u) be certified as follows: "I, the undersigned,
23 hereby certify that this map is correct and shows to the
24 best of my knowledge and belief all the information required
25 by the mining laws of this state." The certification shall

1 be signed and notarized. The department may reject a map as
2 incomplete if its accuracy is not so attested.

3 (n) contain such other or further information as the
4 department may require.

5 (3) If the department finds that the probable total
6 annual production at all locations of any strip- or
7 underground-coal-mining operation applied for will not
8 exceed 100,000 tons, any determination of probable
9 hydrologic consequences that the department requires and the
10 statement of result of test borings or core samplings shall,
11 upon written request of the operator, be performed by a
12 qualified public or private laboratory designated by the
13 department. The department shall assume the cost of the
14 determination and statement to the extent that it has
15 received funds for this purpose.

16 (4) In addition to the information and maps required
17 above, each application for a permit shall be accompanied by
18 detailed plans or proposals showing the method of operation,
19 the manner, time or distance, and estimated cost for
20 backfilling, subsidence stabilization, water control,
21 grading work, highwall reduction, topsoiling, planting,
22 revegetating, and a reclamation plan for the area affected
23 by the operation, which proposals shall meet the
24 requirements of this part and rules adopted under this part.
25 The reclamation plan shall address the life of the operation

1 and indicate the size, sequence, and the timing of the
2 subareas for which it is anticipated that individual permits
3 will be sought.

4 (5) Each applicant for a coal mining permit shall
5 submit as part of the application a certificate issued by an
6 insurance company authorized to do business in the state
7 certifying that the applicant has in force for the strip- or
8 underground-mining and reclamation operations for which the
9 permit is sought a public liability insurance policy, or
10 evidence that the applicant has satisfied other state or
11 federal self-insurance requirements. This policy shall
12 provide for personal injury and property damage protection
13 in an amount adequate to compensate any persons damaged as a
14 result of strip- or underground-coal-mining and reclamation
15 operations, including use of explosives, and entitled to
16 compensation under applicable provisions of state law. The
17 permittee must maintain the policy in full force and effect
18 during the term of the permit and any renewal until all
19 reclamation operations have been completed.

20 (6) Each applicant for a strip-mining or
21 underground-mining reclamation permit shall file a copy of
22 his application for public inspection with the clerk and
23 recorder at the courthouse of the county where the major
24 portion of mining is proposed to occur."

25 Section 26. Section 82-4-239, MCA, is amended to read:

1 *82-4-239. Reclamation by board. (1) The board may
2 have reclamation work done by its own employees or by
3 employees of other governmental agencies, soil conservation
4 districts, or through contracts with qualified persons. The
5 board may construct, operate, and maintain plants for the
6 control and treatment of water pollution resulting from mine
7 drainage.

8 (2) Any funds or any public works programs available
9 to the board shall be used and expended to reclaim and
10 rehabilitate lands that have been subjected to strip mining
11 or underground mining that have not been reclaimed and
12 rehabilitated in accordance with the standards of this part.
13 The board shall cooperate with federal, state, and private
14 agencies to engage in cooperative projects under this
15 section.

16 (3) Agents, employees, or contractors of the
17 department may enter upon any land for the purpose of
18 conducting studies or exploratory work to determine whether
19 such land has been strip- or underground-mined and not
20 reclaimed and rehabilitated in accordance with the
21 requirements of this part and to determine the feasibility
22 of restoration, reclamation, abatement, control, or
23 prevention of any adverse effects of past coal-mining
24 practices. Upon request of the commissioner, the attorney
25 general shall bring an injunctive action to restrain any

1 interference with the exercise of the right to enter and
2 inspect granted in this subsection.

3 (4) If the department makes a finding of fact that:

4 (a) land or water resources have been adversely
5 affected by past coal-mining practices; and

6 (b) the adverse effects are at a stage where in the
7 public interest action to restore, reclaim, abate, control,
8 or prevent should be taken; and

9 (c) the owners of the land or water resources where
10 entry must be made to restore, reclaim, abate, control, or
11 prevent the adverse effects of past coal-mining practices
12 are not known or readily available or the owners will not
13 give permission for the department or its agents, employees,
14 or contractors to enter upon such property to restore,
15 reclaim, abate, control, or prevent the adverse effects of
16 past coal-mining practices;

17 then agents, employees, or contractors of the
18 department, after giving notice by mail to the owner, if
19 known, and any purchaser under contract for deed, if known,
20 or, if not neither is known, by posting notice upon the
21 premises and advertising in a newspaper of general
22 circulation in the county in which the land lies, may enter
23 upon property adversely affected by past coal-mining
24 practices and any other property necessary for access to
25 such mineral property to do all things necessary or

1 expedient to restore, reclaim, abate, control, or prevent
 2 the adverse effects of past coal-mining practices. This act
 3 is not an act of condemnation of property or of trespass but
 4 rather an exercise of the power granted by sections 1 and 2,
 5 Article IX of the Montana constitution.

6 (5) (a) Within 6 months after the completion of
 7 projects to restore, reclaim, abate, control, or prevent
 8 adverse effects of past coal-mining practices on privately
 9 owned land, the department shall itemize the money so
 10 expended and may file a statement thereof in the office of
 11 the clerk and recorder of the county in which the land lies,
 12 together with a notarized appraisal by an independent
 13 appraiser of the value of the land before the restoration,
 14 reclamation, abatement, control, or prevention of adverse
 15 effects of past coal-mining practices if the money so
 16 expended shall result in a significant increase in property
 17 value. Such statement constitutes a lien upon the land. The
 18 lien may not exceed the amount determined by the appraisal
 19 to be the increase in the market value of the land as a
 20 result of the restoration, reclamation, abatement, control,
 21 or prevention of the adverse effects of past coal-mining
 22 practices. No lien may be filed against the property of any
 23 person, in accordance with this subsection, who owned the
 24 surface prior to May 2, 1977, and who neither consented to
 25 nor participated in nor exercised control over the mining

1 operation which necessitated the reclamation performed under
 2 this part.

3 (b) The landowner may petition within 60 days of the
 4 filing of the lien to determine the increase in the market
 5 value of the land as a result of the restoration,
 6 reclamation, abatement, control, or prevention of the
 7 adverse effects of past coal-mining practices. The amount
 8 reported to be the increase in value of the premises
 9 constitutes the amount of the lien and shall be recorded
 10 with the statement herein provided. Any party aggrieved by
 11 the decision may appeal as provided by law.

12 (c) The lien provided in this section shall be
 13 recorded at the office of the county clerk and recorder. The
 14 statement constitutes a lien upon the land as of the date of
 15 the expenditure of the money and has priority as a lien
 16 second only to the lien of real estate taxes imposed upon
 17 the land.

18 (6) The board may acquire the necessary property by
 19 gift or purchase or, if the property cannot be acquired by
 20 gift or purchase at a reasonable cost, proceedings may be
 21 instituted in the manner provided in Title 70, chapter 30,
 22 against all nonaccepting landholders if:

23 (a) the property is necessary for successful
 24 reclamation;

25 (b) the acquired land after restoration, reclamation,

1 abatement, control, or prevention of the adverse effects of
 2 past coal-mining practices will serve recreation and
 3 historic purposes or conservation and reclamation purposes
 4 or provide open space benefits; and

5 (c) permanent facilities such as treatment plants or
 6 relocated stream channels will be constructed on the land
 7 for the restoration, reclamation, abatement, control, or
 8 prevention of the adverse effects of past strip- or
 9 underground-coal-mining practices; or acquisition of coal
 10 refuse disposal sites and all coal refuse thereon will serve
 11 the purposes of this part in that public ownership is
 12 desirable to meet emergency situations and prevent
 13 recurrences of the adverse effects of past coal-mining
 14 practices."

15 Section 27. Section 82-10-503, MCA, is amended to
 16 read:

17 "82-10-503. Notice of drilling operations. In addition
 18 to the requirements for geophysical exploration activities
 19 governed by Title 82, chapter 1, part 1, the oil and gas
 20 developer or operator shall give the surface owner ~~and any~~
 21 ~~PURCHASER UNDER CONTRACT FOR DEED~~ written notice of the
 22 drilling operations that he plans to undertake. This notice
 23 shall be given to the record surface owner ~~and any purchaser~~
 24 ~~UNDER CONTRACT FOR DEED~~ at his address ~~their addresses~~ as
 25 shown by the records of the county clerk and recorder at the

1 time the notice is given. This notice shall sufficiently
 2 disclose the plan of work and operations to enable the
 3 surface owner to evaluate the effect of drilling operations
 4 on the surface owner's use of the property."

5 ~~SECTION 28. SECTION 85-2-232, MCA, IS AMENDED TO READ:~~
 6 "85-2-232. Availability of preliminary decree. (1) The
 7 water judge shall send a copy of the preliminary decree to
 8 the department, and the water judge shall serve by mail a
 9 notice of availability of the preliminary decree to each
 10 person who has filed a claim of existing right ~~and to the~~
 11 ~~PURCHASER UNDER CONTRACT FOR DEED, AS DEFINED IN SECTION~~
 12 ~~11, OF PROPERTY IN CONNECTION WITH WHICH A CLAIM OF EXISTING~~
 13 ~~RIGHT HAS BEEN FILED~~, or, in the Powder River Basin, to each
 14 person who has filed a declaration of an existing right. The
 15 water judge shall enclose with the notice an abstract of the
 16 disposition of such person's claimed or declared existing
 17 right. The notice of availability shall also be served upon
 18 those issued or having applied for and not having been
 19 denied a beneficial water use permit pursuant to Title 85,
 20 chapter 2, part 3, those granted a reservation pursuant to
 21 85-2-316, or other interested persons who request service of
 22 the notice from the water judge. The clerk or person
 23 designated by the water judge to mail the notice shall make
 24 a general certificate of mailing certifying that a copy of
 25 the notice has been placed in the United States mail,

1 postage prepaid, addressed to each party required to be
 2 served notice of the preliminary decree. Such certificate
 3 shall be conclusive evidence of due and legal notice of
 4 entry of decree.

5 (2) Any person may obtain a copy of the preliminary
 6 decree upon payment of a fee of \$20 or the cost of printing,
 7 whichever is greater, to the water judge."

8 ~~SECTION 29. SECTION 85-2-307, MCA, IS AMENDED TO READ:~~

9 "85-2-307. Notice of application. (1) (a) Upon
 10 receipt of a proper application for a permit, the department
 11 shall prepare a notice containing the facts pertinent to the
 12 application and shall publish the notice in a newspaper of
 13 general circulation in the area of the source once a week
 14 for 3 consecutive weeks.

15 (b) Before the last date of publication, the
 16 department shall also serve the notice by first-class mail
 17 upon:

18 (i) an appropriator of water or applicant for or
 19 holder of a permit who, according to the records of the
 20 department, may be affected by the proposed appropriation; *
 21 ~~notice shall also be served upon:~~

22 ~~(ii) any purchaser under contract for deed, as defined~~
 23 ~~in [section 1], of property that, according to the records~~
 24 ~~of the department, may be affected by the proposed~~
 25 ~~appropriation; and~~

1 ~~fill~~ any public agency that has reserved waters in the
 2 source under 85-2-316.

3 (c) The department may, in its discretion, also serve
 4 notice upon any state agency or other person the department
 5 feels may be interested in or affected by the proposed
 6 appropriation.

7 (d) The department shall file in its records proof of
 8 service by affidavit of the publisher in the case of notice
 9 by publication and by its own affidavit in the case of
 10 service by mail.

11 (2) The notice shall state that by a date set by the
 12 department (not less than 30 days or more than 60 days after
 13 the last date of publication) persons may file with the
 14 department written objections to the application.

15 (3) The requirements of subsections (1) and (2) of
 16 this section do not apply if the department finds, on the
 17 basis of information reasonably available to it, that the
 18 appropriation as proposed in the application will not
 19 adversely affect the rights of other persons."

20 Section 30. Section 85-15-202, MCA, is amended to
 21 read:

22 "85-15-202. Examination and report -- subsequent
 23 actions. (1) It is the duty of the persons so appointed to
 24 make a thorough examination of the dam or reservoir. If,
 25 upon examination, they find that persons or property are

1 endangered by reason of the dam or reservoir and it is not
 2 secure against the pressure of the water confined therein or
 3 the water that may be confined therein or against rains and
 4 freshets that may occur and if they find that the same is
 5 secure against the occurrence of the casualties mentioned or
 6 any of them, they must make a report in writing to the
 7 judge, which must be entered of record as a proceeding in
 8 court.

9 (2) If, upon such examination as to the safety of such
 10 reservoir, they consider such reservoir insufficient and
 11 insecure, they must further inquire whether the danger to be
 12 apprehended is imminent, and if they are of the opinion that
 13 such danger is imminent and that destruction of life or
 14 property may result from delay, it is their duty forthwith
 15 to draw from such reservoir the waters therein or so much
 16 thereof as will insure safety, and they must make return of
 17 their action to the judge. In the discharge of such duties,
 18 the persons so acting are peace officers.

19 (3) If, upon examination, they are of opinion that
 20 such dam or reservoir is insecure and insufficient but that
 21 the danger therefrom is not immediate or imminent, they must
 22 so state in their report to the judge. The judge must
 23 thereupon cause a copy of the report to be served on the
 24 owner ~~or of the property, the person in charge thereof, and~~
 25 ~~any purchaser of the property under contract for deed,~~ with

1 a notice requiring him to make the same secure or to draw
 2 the water therefrom without delay. Unless such order is
 3 complied with after hearing, the judge may order the sheriff
 4 to draw from said dam or reservoir the waters thereof."

-End-