

SENATE BILL NO. 40

INTRODUCED BY BOYLAN, KOLSTAD, GRAHAM, GALT,
HAGER, CONOVER

BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

January 8, 1979	Introduced and referred to Committee on Taxation.
	On motion Senators Boylan, Kolstad, Graham were added as authors to the Galt, Hager, Conover prefiled bill.
	Rereferred to Committee on Agriculture, Livestock, and Irrigation.
January 15, 1979	Committee recommend bill do pass. Report adopted.
January 16, 1979	Printed and placed on members' desks.
January 17, 1979	Second reading, do pass.
January 18, 1979	Considered correctly engrossed.
January 19, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

January 20, 1979	Introduced and referred to Select Committee on Water.
March 9, 1979	Committee recommend bill be concurred in and be placed on Consent Calendar. Report adopted.
March 12, 1979	Third reading Consent Calendar concurred in.

IN THE SENATE

March 15, 1979

Returned from second house.
Concurred in. Sent to
enrolling.

Reported correctly enrolled.

SENATE BILL NO. 40

INTRODUCED BY _____

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO WATER USE; AMENDING SECTIONS 85-6-108, 85-7-1507, 85-7-1612, 85-7-1904, 85-7-1906, 85-7-2204, 85-8-101, 85-8-102, 85-8-118, 85-8-119, 85-8-201, AND 85-8-624, MCA."

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

Section 1. Section 85-6-108, MCA, is amended to read:

"85-6-108. Exemption from payment of fees. Any water users' association organized in conformity with the requirements of the laws of the United States and of the state of Montana, under the Reclamation Act of June 17, 1902, which, under the articles of incorporation, is authorized to furnish water only to its stockholders, shall be exempt from the payment of any incorporation-tax license fee and from the payment of any annual franchise license tax and, upon filing its articles of incorporation with the secretary of state, shall be required to pay only a fee of \$40 for the filing and recording of such articles of incorporation and the issuance of certificate of incorporation."

Section 2. Section 85-7-1507, MCA, is amended to read:

"85-7-1507. Conflict of interest -- criminal penalty. No commissioner or any other officer named in this [part] chapter may in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board or in the profits derived therefrom, for any violation of this provision, such officer is guilty of a misdemeanor and his conviction thereof shall work forfeiture of his office and he shall be punished as provided in 45-7-401."

Section 3. Section 85-7-1612, MCA, is amended to read:

"85-7-1612. Board of control -- powers and duties. (1) The board of control established under and by virtue of this part shall be the operating agent of the contracting districts for the operation and maintenance of irrigation and/or drainage works and the delivery of water therefrom.

(2) The board shall make and execute all necessary contracts; employ and appoint such agents, officers, and employees as may be required; and prescribe their duties.

(3) The board shall have the authority and power to institute and maintain any and all actions and proceedings, and suits at law or in equity, necessary or proper in order to fully carry out the provisions of this [chapter] or to enforce, maintain, protect, or preserve any and all rights, privileges, and immunities created by this part or acquired in pursuance thereof, in all courts, suits, or proceedings,

1 the board may sue, appear, and defend in person or by its
2 attorneys and in the name of such board of control.

3 (4) The board may adopt rules and bylaws governing the
4 calling and holding of meetings of the board; the manner of
5 transacting business thereat; and the publishing or posting
6 of the orders, resolutions, and proceedings of the board. It
7 shall be the duty of ~~said~~ the board to pass or adopt bylaws
8 and rules for the apportionment and distribution of water to
9 the lands of the contracting districts and for the
10 protection and preservation of the works and other property
11 of the ~~said~~ districts. All orders and resolutions shall be
12 passed or adopted by a majority of the members of the board
13 of control by a "yea" and "nay" vote, to be entered upon the
14 records of the board.

15 (5) ~~Said~~ The board of control shall have power
16 generally to do and perform all such other acts as shall be
17 necessary or appropriate to fully carry out the purposes of
18 this part."

19 Section 4. Section 85-7-1904, MCA, is amended to read:

20 "85-7-1904. Acquisition of water and waterworks by
21 board. (1) The board shall have power and authority to:
22 (a) appropriate water in the name of the district;
23 (b) acquire by purchase, lease, or contract water and
24 water rights; additional waters and supplies of waters;
25 canals, reservoirs, dams, and other works already

1 constructed or in the course of construction; and

2 (c) acquire by purchase, lease, contract,
3 condemnation, or other legal means;

4 (ii) lands and rights in lands for rights-of-way, for
5 reservoirs, for the storage of needful waters, and for dam
6 sites and necessary appurtenances; and

7 (iii) such other lands and property as may be necessary
8 for the construction, use, maintenance, repair, improvement,
9 enlargement, and operation of any district system of
10 irrigation works.

11 (2) The board shall have the privilege, if desired, to
12 contract with the owner or owners of such canals,
13 reservoirs, dams, and other works so purchased and in the
14 course of construction for the completion thereof.

15 (3) No purchase, lease, or contract for purchase of
16 any water, water rights, canals, reservoirs, reservoir
17 sites, dam sites, irrigation works, or other property of any
18 nature or kind or for the making or purchasing of surveys,
19 maps, plans, estimates, and specifications or for the
20 purchase of machinery for pumping plants or for the erection
21 of buildings, aqueducts, and other structures necessarily
22 used in connection with such pumping plants, for a price or
23 rental in excess of \$80,000, shall be final or binding upon
24 the district, nor shall said sum be paid without the written
25 consent or petition of at least a majority in number and

1 acreage of the holders of title or evidence of title to the
 2 lands within the district. Any splitting or division of such
 3 purchase, lease, or contract with the purpose or intention
 4 of avoiding or circumventing the provisions of this section
 5 shall render such divided or split contract or contracts
 6 ~~absolutely null and void.~~"

7 Section 5. Section 85-7-1906, MCA, is amended to read:

8 "85-7-1906. Relations with United States. (1) For the
 9 purpose of acquiring control over government land within the
 10 district and of complying with the provisions of the act of
 11 congress of August 11, 1916, the board shall have authority
 12 to make such investigations and base thereon such
 13 representations and assurances to the secretary of the
 14 interior as may be requisite.

15 (2) The board may enter into any obligation or
 16 contract with the United States:

17 (a) for the construction, operation, and maintenance
 18 of the necessary works for the delivery and distribution of
 19 water therefrom and the necessary drainage works;

20 (b) for the assumption, as principal or guarantor, of
 21 indebtedness to the United States on account of district
 22 lands, under the provisions of the ~~Federal~~ federal
 23 Reclamation Act of June 17, 1902, all acts amendatory
 24 thereof or supplementary thereto, and the rules and
 25 regulations established thereunder; or

1 (c) for a water supply under any act of congress
 2 providing for or permitting such contract.

3 (3) In case contract has been or may hereafter be made
 4 with the United States as herein provided, bonds of the
 5 district may be deposited with the United States at 90% of
 6 their par value, to the amount to be paid by the district to
 7 the United States under any such contract. The interest on
 8 said bonds of the district and regularly paid to the United
 9 States is to be applied as provided in such contract. If
 10 bonds of the district are not so deposited, it shall be the
 11 duty of the board of commissioners to include, as part of
 12 any levy or assessment provided for in 85-7-2101 or
 13 85-7-2132, an amount sufficient to meet each year all
 14 payments accruing under the terms of any such contract. The
 15 board may accept, on behalf of the district, appointment of
 16 the district as fiscal agent of the United States or
 17 authorization of the district by the United States to make
 18 collections of ~~moneys~~ money for or on behalf of the United
 19 States in connection with any federal reclamation project,
 20 whereupon the district shall be authorized to so act and to
 21 assume the duties and liabilities incident to such action.
 22 The board shall have full power to do ~~any~~ and all things
 23 required by the federal statutes now or hereafter enacted in
 24 connection therewith and all things required by the rules
 25 and regulations now or that may hereafter be established by

1 any department of the federal government in regard thereto,
2 including the power to require the prompt payment of all
3 charges as prerequisite to water service."

4 Section 6. Section 85-7-2204, MCA, is amended to read:

5 "85-7-2204. Written consent of owners --
6 acknowledgment and recording requirements. Whenever any
7 written consent is required to be given by or obtained from
8 the owner or owners of any lands by any of the provisions of
9 any of the sections of this ~~(see)~~ chapter, such written
10 consent must be acknowledged before some officer authorized
11 to take acknowledgments and shall be filed and recorded in
12 the office of the clerk and recorder of the county in which
13 such lands are situated, and a certified copy thereof must
14 be filed in the office of the clerk of the court in the
15 county in which the proceedings for the organization of such
16 district were instituted. The provisions of this section
17 shall not apply to any petition provided for by this ~~(see)~~
18 chapter, and all such petitions may be signed in any number
19 of original parts with the same effect as though all
20 signatures had been affixed to one instrument."

21 Section 7. Section 85-8-101, MCA, is amended to read:

22 "85-8-101. Petition for creation of district. (1)
23 Whenever a majority of the ~~estate~~ owners of lands within any
24 district of land who shall represent one-third in area of
25 the land within said district to be reclaimed or benefited

1 or whenever the ~~estate~~ owners of more than one-half of the
2 lands within such district desire to construct one or more
3 drains, ditches, levees, waste ditches, or other works
4 across the lands of others or to straighten, widen, deepen,
5 or otherwise alter any natural stream or watercourse not
6 navigable, for the promotion of the public health or welfare
7 and the drainage of ~~said~~ ~~the~~ lands and removal of surface
8 waters therefrom; or desire to maintain and keep in repair
9 any such drain, ditch, or levee heretofore constructed under
10 any law of this state, such owners may file, in the district
11 court of any county in which the lands or any part of them
12 shall lie, a petition setting forth:

13 (a) the proposed name of ~~said~~ ~~the~~ drainage district;

14 (b) the necessity of the proposed work, ~~describing the~~
15 necessity;

16 (c) a general description of the proposed starting
17 points, routes, and termini of the proposed drain, ditches,
18 and levees;

19 (d) a general description of the lands proposed to be
20 included in ~~said~~ ~~the~~ district;

21 (e) the names of the owners of all lands in ~~said~~ ~~the~~
22 district, when known.

23 (2) If the purpose of ~~said~~ ~~the~~ petitioners is the
24 enlargement, repair, and maintenance of a ditch, levee, or
25 other work heretofore constructed under any law of this

1 state, ~~and the~~ petition shall give a general description of
 2 the same, with such particulars as ~~may--be--deemed as~~
 3 ~~considered~~ important. ~~Said the~~ petition shall pray for the
 4 organization of a drainage district by the name and with the
 5 boundaries proposed and for the appointment of commissioners
 6 for the execution of such proposed work, according to the
 7 provisions of this and the following sections.

8 (3) (a) Any lands, the title to which is in the state
 9 ~~of-Montana~~ and which are within the boundaries of any
 10 drainage district heretofore created or which may be
 11 hereafter created, may be included in any such drainage
 12 district in the same manner as is by law provided for adding
 13 other lands to drainage districts whenever it is found
 14 necessary to include lands in drainage districts as provided
 15 by the preceding subsections.

16 (b) ~~Any-and-all~~ All copies of petitions or notices
 17 required by law to be served on account of such lands being
 18 included in such drainage districts shall be served on the
 19 president of the board having control of such lands in the
 20 same manner as is hereinafter provided for the service of
 21 petitions and notices on other owners of lands in the
 22 district in which said lands are situated.*

23 Section 8. Section 85-8-102, MCA, is amended to read:
 24 *85-8-102. Amendment and circulation of petition --
 25 court consideration. No petition having as many signers as

1 are required by 85-8-101 may be declared void, but the court
 2 may at any time permit the petition to be amended in form
 3 and substance to conform to the facts, if the facts justify
 4 the organization of a drainage district. Several similar
 5 petitions for the organization of the same district may be
 6 circulated and, when filed, together shall be regarded as
 7 one petition having as many signers as there are separate
 8 ~~adult~~ signers on the several filed petitions who own lands
 9 within the proposed drainage district. All petitions for the
 10 organization of the district filed prior to the hearing on
 11 the petition shall be considered by the court the same as if
 12 filed with the first petitions placed on file, and the
 13 signatures thereon shall be counted in determining whether
 14 sufficient landowners have signed the petition.*

15 Section 9. Section 85-8-118, MCA, is amended to read:
 16 *85-8-118. Determination of sufficiency of petition.
 17 The court shall hear and determine whether or not the
 18 petition contains the signatures of a majority of the ~~adult~~
 19 owners of lands within the proposed district who are of
 20 lawful age and who represent one-third in area of the lands
 21 proposed to be affected by said work or the signatures of
 22 the ~~adult~~ owners of more than one-half of such lands, and
 23 shall determine all questions of law arising on said
 24 contest. The district court in which such petition shall be
 25 filed or the judge thereof may adjourn the hearing on ~~said~~

1 ~~the~~ petition from time to time for want of sufficient
2 ~~notice~~ to give time to prepare for trial, or for other good
3 cause."

4 Section 10. Section 85-8-119, MCA, is amended to read:

5 "85-8-119. Receiving affidavits on question of
6 petition sufficiency. The affidavits of any 10 or more of
7 the signers of ~~said the~~ petition, stating that they have
8 examined it and are acquainted with the locality of ~~said the~~
9 district and that ~~said the~~ petition is signed by a
10 sufficient number of ~~adult~~ owners of lands in ~~said the~~
11 district to satisfy 85-8-101, may be taken by the court or
12 judge as prima facie evidence of the facts therein stated.
13 The affidavit of any petitioner or other landowner before
14 ~~such the~~ court or represented before the court ~~giving the~~
15 ~~age of such offiant and asserting his or her~~ ownership of
16 ~~such lands in the district, to be named therein by proper~~
17 ~~description shall be~~ properly described is sufficient
18 evidence to the court of such facts."

19 Section 11. Section 85-8-201, MCA, is amended to read:

20 "85-8-201. Dissolution of districts. Whenever the
21 ~~adult~~ owners of more than one-half of the lands within any
22 drainage district organized under the provisions of this
23 chapter shall present to the district court having
24 jurisdiction of ~~said the~~ drainage district a petition signed
25 by them, praying that such drainage district be dissolved,

1 the judge of ~~said the~~ court shall cause notice of such
2 petition, together with a copy of ~~said the~~ petition, to be
3 served upon the commissioners of ~~said the~~ district,
4 directing them to show cause on a day certain, not less than
5 15 or more than 30 days from the date of the filing of ~~said~~
6 ~~the~~ petition, why ~~said the~~ petition should not be granted.
7 The judge, at the time of receiving the petition, shall make
8 an order forbidding the commissioners from incurring any
9 further expense or proceeding with the work of constructing
10 a drain. On ~~said the~~ day of hearing the court shall hear the
11 same, and if it appears that the ~~adult~~ owners of more than
12 one-half of the lands in ~~said the~~ drainage district have
13 signed ~~said the~~ petition, it shall be granted. Thereupon,
14 the court shall make an order directing the commissioners to
15 file a written report, under oath, setting forth the amount
16 of the debts and obligations of ~~said the~~ drainage district.
17 Within 30 days after such report is filed, the court shall
18 ~~cause to be spread or spread a levy an assessment to be~~
19 levied against all lands in ~~said the~~ district on the basis
20 of the final report of the commissioners, as confirmed by
21 the court, and if no final report has been made, then on an
22 area basis. The court shall also enter judgment dissolving
23 ~~said the~~ district and authorize the commissioners to settle
24 the business of the district on the basis of the final
25 report of ~~said the~~ commissioners o. on the area basis as

1 confirmed by this court, ~~said the~~ commissioners to render
2 their services for same without pay."

3 Section 12. Section 85-8-624, MCA, is amended to read:

4 "85-8-624. Assessments on improvements -- taxpayers'
5 approval, limitations, and election procedures. (1) It shall
6 require a vote of the persons on the assessment rolls in any
7 existing district to make Chapter 409, Laws of 1973,
8 applicable to such districts.

9 (2) Nothing in Chapter 409, Laws of 1973, confers upon
10 districts created for drainage purposes only the authority
11 to levy assessments on benefits to improvements.

12 (3) The election provided for by subsection (1) shall
13 be governed by the following rules:

14 (a) Notice of the election shall be as provided in
15 85-8-303, except that the form of the ballot shall be as
16 hereinafter provided.

17 (b) The manner of conducting the election shall be as
18 provided in 85-8-304.

19 (c) The qualifications of electors shall be as
20 provided in 85-8-305, except that, in addition to persons
21 holding title or evidence of title to lands within the
22 district, any person as therein defined who does not own
23 land within the district but has been assessed or will have
24 his improvements assessed under Chapter 409, Laws of 1973,
25 or who will be assessed for benefits received shall be

1 entitled to one vote. Commissioners shall prepare a list of
2 such persons and give them notice as provided in 85-8-303.

3 (d) The commissioners of any district in existence
4 prior to March 21, 1973, who wish to hold an election to
5 determine if the district shall be governed by Chapter 409,
6 Laws of 1973, shall at any regular or special meeting adopt
7 a resolution calling for an election to determine whether or
8 not the voters of said district wish to be governed by
9 Chapter 409, Laws of 1973. The resolution shall contain a
10 short summary of the changes made by Chapter 409, Laws of
11 1973, and shall include the summary as part of the notice
12 provided for by 85-8-303. In addition, the commission shall
13 provide copies of Chapter 409, Laws of 1973, to any person
14 interested in obtaining a copy of the same and the notice to
15 the persons in the district calling the election shall
16 describe where and how copies may be obtained. The
17 commissioners may authorize a reasonable charge for
18 providing said copies, not to exceed 20 cents per page.

19 (e) The ballot shall include the summary as provided
20 for in the preceding subsection and the form of the ballot
21 shall conform as closely as possible to that set forth in
22 ~~85-27-214~~ provided for in title 13, chapter 21.

23 (f) A simple majority of those who cast valid ballots
24 shall determine the outcome of the election."

-End-

SENATE MEMBERS

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CHAIRMAN

FRANK HAZELBAKER
VICE CHAIRMAN

CHET BLAYLOCK

WAT M. GOODOVER

DIANA S. DOWLING
EXECUTIVE DIRECTOR
CODE COMMISSIONER

ELEANOR ECK
ADMINISTRATIVE ASSISTANT

ROBERTA MOODY
DIRECTOR, LEGISLATIVE SERVICES



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H. DAVID COGLEY
DIRECTOR, LEGAL SERVICES

ROBERT PERSON
DIRECTOR, RESEARCH

LC 0023

1979 Legislature
Code Commissioner Bill - Summary

SENATE Bill No. 40

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO WATER USE.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 95-6-108. "Incorporation tax" is changed to "license fee" and "franchise tax" is changed to "license tax" for consistency with the terminology used in the corporate laws.

Section 2. 85-7-1507. "[act]" is changed to "chapter" to provide an updated reference. The change is consistent with the intent of the section.

Section 3. 85-7-1612. In subsection (3), "[chapter]" is changed to "chapter" to provide an updated reference.

Section 4. 85-7-1904. In subsection (1)(c), new punctuation and arrangement are provided for clarity.

Section 5. 85-7-1906. In subsection (2)(b), "Federal Reclamation Act" is changed to "federal Reclamation Act of June 17, 1902" to provide a correct reference to the federal law.

Section 6. 85-7-2204. "[act]" is changed to "chapter" to provide an updated reference.

Sections 7 through 11. 85-8-101, 85-8-102, 85-8-118, 85-8-119, and 85-8-201. In these sections the requirement that an owner of land be an adult for various purposes is suggested for elimination on the basis of equal protection

LC 0023

and age discrimination and for consistency with the laws relating to other types of districts. Sections 85-8-119 and 85-8-201 are also rewritten for clarity.

Section 12. 85-8-624. In subsection (3)(e), "set forth in 13-27-314" is changed to "provided for in Title 13, chapter 27" to provide a more accurate reference.

Approved by Committee
on Agriculture Livestock
& Irrigation

1 SENATE BILL NO. 40
2 INTRODUCED BY *Boyer Kotsiak*
3 *Galt Hoyer* BY REQUEST OF THE CODE COMMISSIONER
4 *Mark Connor*

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6 CLARIFY THE LAWS RELATING TO WATER USE; AMENDING SECTIONS
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 13 85-7-2132, an amount sufficient to meet each year all
 14 payments accruing under the terms of any such contract. The
 15 board may accept, on behalf of the district, appointment of
 16 the district as fiscal agent of the United States or
 17 authorization of the district by the United States to make
 18 collections of moneys ~~money~~ for or on behalf of the United
 19 States in connection with any federal reclamation project,
 20 whereupon the district shall be authorized to so act and to
 21 assume the duties and liabilities incident to such action.
 22 The board shall have full power to do ~~any~~ and all things
 23 required by the federal statutes now or hereafter enacted in
 24 connection therewith and all things required by the rules
 25 and regulations now or that may hereafter be established by

1 any department of the federal government in regard thereto,
 2 including the power to require the prompt payment of all
 3 charges as prerequisite to water service."

4 Section 6. Section 85-7-2204, MCA, is amended to read:
 5 "85-7-2204. Written consent of owners --
 6 acknowledgment and recording requirements. Whenever any
 7 written consent is required to be given by or obtained from
 8 the owner or owners of any lands by any of the provisions of
 9 any of the sections of this [sect] chapter, such written
 10 consent must be acknowledged before some officer authorized
 11 to take acknowledgments and shall be filed and recorded in
 12 the office of the clerk and recorder of the county in which
 13 such lands are situated, and a certified copy thereof must
 14 be filed in the office of the clerk of the court in the
 15 county in which the proceedings for the organization of such
 16 district were instituted. The provisions of this section
 17 shall not apply to any petition provided for by this [sect]
 18 chapter, and all such petitions may be signed in any number
 19 of original parts with the same effect as though all
 20 signatures had been affixed to one instrument."

21 Section 7. Section 85-8-101, MCA, is amended to read:
 22 "85-8-101. Petition for creation of district. (1)
 23 Whenever a majority of the ~~estate~~ owners of lands within any
 24 district of land who shall represent one-third in area of
 25 the land within said district to be reclaimed or benefited

1 or whenever the ~~estate~~ owners of more than one-half of the
 2 lands within such district desire to construct one or more
 3 drains, ditches, levees, waste ditches, or other works
 4 across the lands of others or to straighten, widen, deepen,
 5 or otherwise alter any natural stream or watercourse not
 6 navigable, for the promotion of the public health or welfare
 7 and the drainage of ~~said the~~ lands and removal of surface
 8 waters therefrom; or desire to maintain and keep in repair
 9 any such drain, ditch, or levee heretofore constructed under
 10 any law of this state, such owners may file, in the district
 11 court of any county in which the lands or any part of them
 12 shall lie, a petition setting forth:

- 13 (a) the proposed name of ~~said the~~ drainage district;
 14 (b) the necessity of the proposed work, ~~describing the~~
 15 necessity;
 16 (c) a general description of the proposed starting
 17 points, routes, and termini of the proposed drain, ditches,
 18 and levees;
 19 (d) a general description of the lands proposed to be
 20 included in ~~said the~~ district;
 21 (e) the names of the owners of all lands in ~~said the~~
 22 district, when known.

23 (2) If the purpose of ~~said the~~ petitioners is the
 24 enlargement, repair, and maintenance of a ditch, levee, or
 25 other work heretofore constructed under any law of this

1 state, ~~and the~~ petition shall give a general description of
 2 the same, with such particulars as ~~may--be--deemed are~~
 3 ~~considered~~ important. ~~Said the~~ petition shall pray for the
 4 organization of a drainage district by the name and with the
 5 boundaries proposed and for the appointment of commissioners
 6 for the execution of such proposed work, according to the
 7 provisions of this and the following sections.

8 (3) (a) Any lands, the title to which is in the state
 9 of ~~Montana~~ and which are within the boundaries of any
 10 drainage district heretofore created or which may be
 11 hereafter created, may be included in any such drainage
 12 district in the same manner as is by law provided for adding
 13 other lands to drainage districts whenever it is found
 14 necessary to include lands in drainage districts as provided
 15 by the preceding subsections.

16 (b) ~~Any-and-all~~ All copies of petitions or notices
 17 required by law to be served on account of such lands being
 18 included in such drainage districts shall be served on the
 19 president of the board having control of such lands in the
 20 same manner as is hereinafter provided for the service of
 21 petitions and notices on other owners of lands in the
 22 district in which said lands are situated."

23 Section 8. Section 85-8-102, MCA, is amended to read:
 24 "85-8-102. Amendment and circulation of petition --
 25 court consideration. No petition having as many signers as

1 are required by 85-8-101 may be declared void, but the court
 2 may at any time permit the petition to be amended in form
 3 and substance to conform to the facts, if the facts justify
 4 the organization of a drainage district. Several similar
 5 petitions for the organization of the same district may be
 6 circulated and, when filed, together shall be regarded as
 7 one petition having as many signers as there are separate
 8 ~~adult~~ signers on the several filed petitions who own lands
 9 within the proposed drainage district. All petitions for the
 10 organization of the district filed prior to the hearing on
 11 the petition shall be considered by the court the same as if
 12 filed with the first petitions placed on file, and the
 13 signatures thereon shall be counted in determining whether
 14 sufficient landowners have signed the petition."

15 Section 9. Section 85-8-118, MCA, is amended to read:
 16 "85-8-118. Determination of sufficiency of petition.
 17 The court shall hear and determine whether or not the
 18 petition contains the signatures of a majority of the ~~adult~~
 19 owners of lands within the proposed district who are of
 20 lawful age and who represent one-third in area of the lands
 21 proposed to be affected by said work or the signatures of
 22 the ~~adult~~ owners of more than one-half of such lands and
 23 shall determine all questions of law arising on said
 24 contest. The district court in which such petition shall be
 25 filed or the judge thereof may adjourn the hearing on ~~and~~

1 ~~the~~ petition from time to time for want of sufficient
2 notice, to give time to prepare for trial, or for other good
3 cause."

4 Section 10. Section 85-8-119, MCA, is amended to read:

5 "85-8-119. Receiving affidavits on question of
6 petition sufficiency. The affidavits of any 10 or more of
7 the signers of ~~said the~~ petition, stating that they have
8 examined it and are acquainted with the locality of ~~said the~~
9 district and that ~~said the~~ petition is signed by a
10 sufficient number of ~~edit~~ owners of lands in ~~said the~~
11 district to satisfy 85-8-101, may be taken by the court or
12 judge as prima facie evidence of the facts therein stated.
13 The affidavit of any petitioner or other landowner before
14 ~~such the~~ court or represented before the court ~~giving the~~
15 ~~age-of-such-tenant-and asserting~~ his or--her ownership of
16 such lands ~~in the district, to be named therein by proper~~
17 ~~description, shall--be properly described, is~~ sufficient
18 evidence to the court of such facts."

19 Section 11. Section 85-8-201, MCA, is amended to read:

20 "85-8-201. Dissolution of districts. Whenever the
21 ~~edit~~ owners of more than one-half of the lands within any
22 drainage district organized under the provisions of this
23 chapter shall present to the district court having
24 jurisdiction of ~~said the~~ drainage district a petition signed
25 by them, praying that such drainage district be dissolved,

1 the judge of ~~said the~~ court shall cause notice of such
2 petition, together with a copy of ~~said the~~ petition, to be
3 served upon the commissioners of ~~said the~~ district,
4 directing them to show cause on a day certain, not less than
5 15 or more than 30 days from the date of the filing of ~~said~~
6 ~~the~~ petition, why ~~said the~~ petition should not be granted.
7 The judge, at the time of receiving the petition, shall make
8 an order forbidding the commissioners from incurring any
9 further expense or proceeding with the work of constructing
10 a drain. On ~~said the~~ day of hearing the court shall hear the
11 same, and if it appears that the ~~edit~~ owners of more than
12 one-half of the lands in ~~said the~~ drainage district have
13 signed ~~said the~~ petition, it shall be granted. Thereupon,
14 the court shall make an order directing the commissioners to
15 file a written report, under oath, setting forth the amount
16 of the debts and obligations of ~~said the~~ drainage district.
17 Within 30 days after such report is filed, the court shall
18 cause ~~to--be--spread--or--spread--to--levy an assessment to be~~
19 ~~levied~~ against all lands in ~~said the~~ district on the basis
20 of the final report of the commissioners, as confirmed by
21 the court, and if no final report has been made, then on an
22 area basis. The court shall also enter judgment dissolving
23 ~~said the~~ district and authorize the commissioners to settle
24 the business of the district on the basis of the final
25 report of ~~said the~~ commissioners or on the area basis as

1 confirmed by this court, ~~and the~~ commissioners to render
2 their services for same without pay."

3 Section 12. Section 85-8-624, MCA, is amended to read:
4 "85-8-624. Assessments on improvements -- taxpayers'
5 approval, limitations, and election procedures. (1) It shall
6 require a vote of the persons on the assessment rolls in any
7 existing district to make Chapter 409, Laws of 1973,
8 applicable to such districts.

9 (2) Nothing in Chapter 409, Laws of 1973, confers upon
10 districts created for drainage purposes only the authority
11 to levy assessments on benefits to improvements.

12 (3) The election provided for by subsection (1) shall
13 be governed by the following rules:

14 (a) Notice of the election shall be as provided in
15 85-8-303, except that the form of the ballot shall be as
16 hereinafter provided.

17 (b) The manner of conducting the election shall be as
18 provided in 85-8-304.

19 (c) The qualifications of electors shall be as
20 provided in 85-8-305, except that, in addition to persons
21 holding title or evidence of title to lands within the
22 district, any person as therein defined who does not own
23 land within the district but has been assessed or will have
24 his improvements assessed under Chapter 409, Laws of 1973,
25 or who will be assessed for benefits received shall be

1 entitled to one vote. Commissioners shall prepare a list of
2 such persons and give them notice as provided in 85-8-303.

3 (d) The commissioners of any district in existence
4 prior to March 21, 1973, who wish to hold an election to
5 determine if the district shall be governed by Chapter 409,
6 Laws of 1973, shall at any regular or special meeting adopt
7 a resolution calling for an election to determine whether or
8 not the voters of said district wish to be governed by
9 Chapter 409, Laws of 1973. The resolution shall contain a
10 short summary of the changes made by Chapter 409, Laws of
11 1973, and shall include the summary as part of the notice
12 provided for by 85-8-303. In addition, the commission shall
13 provide copies of Chapter 409, Laws of 1973, to any person
14 interested in obtaining a copy of the same and the notice to
15 the persons in the district calling the election shall
16 describe where and how copies may be obtained. The
17 commissioners may authorize a reasonable charge for
18 providing said copies, not to exceed 20 cents per page.

19 (e) The ballot shall include the summary as provided
20 for in the preceding subsection and the form of the ballot
21 shall conform as closely as possible to that set forth ~~in~~
22 ~~§§ 27-314~~ provided for in Title 13, Chapter 27.

23 (f) A simple majority of those who cast valid ballots
24 shall determine the outcome of the election."

-end-

5B40

SENATE BILL NO. 40

1 INTRODUCTION BY *Boyer Kotsak*
2 *Galt Hager* BY REQUEST OF THE CODE COMMISSIONER
3 *MacCormac*

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LAWS RELATING TO WATER USE; AMENDING SECTIONS
7 85-6-108, 85-7-1507, 85-7-1612, 85-7-1904, 85-7-1906,
8 85-7-2204, 85-8-101, 85-8-102, 85-8-118, 85-8-119, 85-8-201,
9 AND 85-8-624, MCA."

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

12 Section 1. Section 85-6-108, MCA, is amended to read:
13 "85-6-108. Exemption from payment of fees. Any water
14 users' association organized in conformity with the
15 requirements of the laws of the United States and of the
16 state of Montana, under the Reclamation Act of June 17,
17 1902, which, under the articles of incorporation, is
18 authorized to furnish water only to its stockholders, shall
19 be exempt from the payment of any incorporation-tax license
20 fee and from the payment of any annual franchise license tax
21 and, upon filing its articles of incorporation with the
22 secretary of state, shall be required to pay only a fee of
23 \$40 for the filing and recording of such articles of
24 incorporation and the issuance of certificate of
25 incorporation."

1 Section 2. Section 85-7-1507, MCA, is amended to read:
2 "85-7-1507. Conflict of interest -- criminal penalty.
3 No commissioner or any other officer named in this [sect-]
4 chapter may in any manner be interested, directly or
5 indirectly, in any contract awarded or to be awarded by the
6 board or in the profits derived therefrom. For any violation
7 of this provision, such officer is guilty of a misdemeanor
8 and his conviction thereof shall work forfeiture of his
9 office and he shall be punished as provided in 45-7-401."

10 Section 3. Section 85-7-1612, MCA, is amended to read:
11 "85-7-1612. Board of control -- powers and duties. (1)
12 The board of control established under and by virtue of this
13 part shall be the operating agent of the contracting
14 districts for the operation and maintenance of irrigation
15 and/or drainage works and the delivery of water therefrom.
16 (2) The board shall make and execute all necessary
17 contracts; employ and appoint such agents, officers, and
18 employees as may be required; and prescribe their duties.
19 (3) The board shall have the authority and power to
20 institute and maintain any and all actions and proceedings,
21 and suits at law or in equity, necessary or proper in order
22 to fully carry out the provisions of this [chapter] or to
23 enforce, maintain, protect, or preserve any and all rights,
24 privileges, and immunities created by this part or acquired
25 in pursuance thereof. In all courts, suits, or proceedings,

1 the board may sue, appear, and defend in person or by its
2 attorneys and in the name of such board of control.

3 (4) The board may adopt rules and bylaws governing the
4 calling and holding of meetings of the board; the manner of
5 transacting business thereat; and the publishing or posting
6 of the orders, resolutions, and proceedings of the board. It
7 shall be the duty of ~~said~~ the board to pass or adopt bylaws
8 and rules for the apportionment and distribution of water to
9 the lands of the contracting districts and for the
10 protection and preservation of the works and other property
11 of the ~~said~~ districts. All orders and resolutions shall be
12 passed or adopted by a majority of the members of the board
13 of control by a "yea" and "nay" vote, to be entered upon the
14 records of the board.

15 (5) ~~Said~~ the board of control shall have power
16 generally to do and perform all such other acts as shall be
17 necessary or appropriate to fully carry out the purposes of
18 this part."

19 Section 4. Section 85-7-1904, MCA, is amended to read:

20 "85-7-1904. Acquisition of water and waterworks by
21 board. (1) The board shall have power and authority to:

22 (a) appropriate water in the name of the district;

23 (b) acquire by purchase, lease, or contract water and
24 water rights; additional waters and supplies of water;
25 canals, reservoirs, dams, and other works already

1 constructed or in the course of construction; and

2 (c) acquire by purchase, lease, contract,
3 condemnation, or other legal means;

4 (i) lands and rights in lands for rights-of-way, for
5 reservoirs, for the storage of needful waters, and for dam
6 sites, and necessary appurtenances; and

7 (ii) such other lands and property as may be necessary
8 for the construction, use, maintenance, repair, improvement,
9 enlargement, and operation of any district system of
10 irrigation works.

11 (2) The board shall have the privilege, if desired, to
12 contract with the owner or owners of such canals,
13 reservoirs, dams, and other works so purchased and in the
14 course of construction for the completion thereof.

15 (3) No purchase, lease, or contract for purchase of
16 any water, water rights, canals, reservoirs, reservoir
17 sites, dam sites, irrigation works, or other property of any
18 nature or kind or for the making or purchasing of surveys,
19 maps, plans, estimates, and specifications or for the
20 purchase of machinery for pumping plants or for the erection
21 of buildings, aqueducts, and other structures necessarily
22 used in connection with such pumping plants, for a price or
23 rental in excess of \$80,000, shall be final or binding upon
24 the district, nor shall said sum be paid without the written
25 consent or petition of at least a majority in number and

1 acreage of the holders of title or evidence of title to the
2 lands within the district. Any splitting or division of such
3 purchase, lease, or contract with the purpose or intention
4 of avoiding or circumventing the provisions of this section
5 shall render such divided or split contract or contracts
6 ~~absolutely null and void.~~"

7 Section 5. Section 85-7-1906, MCA, is amended to read:

8 "85-7-1906. Relations with United States. (1) For the
9 purpose of acquiring control over government land within the
10 district and of complying with the provisions of the act of
11 congress of August 11, 1916, the board shall have authority
12 to make such investigations and base thereon such
13 representations and assurances to the secretary of the
14 interior as may be requisite.

15 (2) The board may enter into any obligation or
16 contract with the United States:

17 (a) for the construction, operation, and maintenance
18 of the necessary works for the delivery and distribution of
19 water therefrom and the necessary drainage works;

20 (b) for the assumption, as principal or guarantor, of
21 indebtedness to the United States on account of district
22 lands, under the provisions of the Federal ~~federal~~
23 Reclamation Act of ~~JUN 17, 1902~~, all acts amendatory
24 thereof or supplementary thereto, and the rules and
25 regulations established thereunder; or

1 (c) for a water supply under any act of congress
2 providing for or permitting such contract.

3 (3) In case contract has been or may hereafter be made
4 with the United States as herein provided, bonds of the
5 district may be deposited with the United States at 90% of
6 their par value, to the amount to be paid by the district to
7 the United States under any such contract. The interest on
8 said bonds of the district and regularly paid to the United
9 States is to be applied as provided in such contract. If
10 bonds of the district are not so deposited, it shall be the
11 duty of the board of commissioners to include, as part of
12 any levy or assessment provided for in 85-7-2101 or
13 85-7-2132, an amount sufficient to meet each year all
14 payments accruing under the terms of any such contract. The
15 board may accept, on behalf of the district, appointment of
16 the district as fiscal agent of the United States or
17 authorization of the district by the United States to make
18 collections of moneys ~~may~~ for or on behalf of the United
19 States in connection with any federal reclamation project,
20 whereupon the district shall be authorized to so act and to
21 assume the duties and liabilities incident to such action.
22 The board shall have full power to do ~~any~~ and all things
23 required by the federal statutes now or hereafter enacted in
24 connection therewith and all things required by the rules
25 and regulations now or that may hereafter be established by

1 any department of the federal government in regard thereto,
2 including the power to require the prompt payment of all
3 charges as prerequisite to water service."

4 Section 6. Section 85-7-2204, MCA, is amended to read:

5 "85-7-2204. Written consent of owners --
6 acknowledgment and recording requirements. Whenever any
7 written consent is required to be given by or obtained from
8 the owner or owners of any lands by any of the provisions of
9 any of the sections of this [see] chapter, such written
10 consent must be acknowledged before some officer authorized
11 to take acknowledgments and shall be filed and recorded in
12 the office of the clerk and recorder of the county in which
13 such lands are situated, and a certified copy thereof must
14 be filed in the office of the clerk of the court in the
15 county in which the proceedings for the organization of such
16 district were instituted. The provisions of this section
17 shall not apply to any petition provided for by this [see]
18 chapter, and all such petitions may be signed in any number
19 of original parts with the same effect as though all
20 signatures had been affixed to one instrument."

21 Section 7. Section 85-8-101, MCA, is amended to read:

22 "85-8-101. Petition for creation of district. (1)
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25 the land within said district to be reclaimed or benefited

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3 drains, ditches, levees, waste ditches, or other works
4 across the lands of others or to straighten, widen, deepen,
5 or otherwise alter any natural stream or watercourse not
6 navigable, for the promotion of the public health or welfare
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8 waters therefrom; or desire to maintain and keep in repair
9 any such drain, ditch, or levee heretofore constructed under
10 any law of this state, such owners may file, in the district
11 court of any county in which the lands or any part of them
12 shall lie, a petition setting forth:

13 (a) the proposed name of ~~edit the~~ drainage district;

14 (b) the necessity of the proposed work, ~~describing the~~
15 necessity;

16 (c) a general description of the proposed starting
17 points, routes, and termini of the proposed drain, ditches,
18 and levees;

19 (d) a general description of the lands proposed to be
20 included in ~~edit the~~ district;

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24 enlargement, repair, and maintenance of a ditch, levee, or
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 2 the same, with such particulars as ~~may--be--deemed~~ ~~are~~
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 9 of-Montana and which are within the boundaries of any
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25 by them, praying that such drainage district be dissolved,

1 the judge of ~~said the~~ court shall cause notice of such
2 petition, together with a copy of ~~said the~~ petition, to be
3 served upon the commissioners of ~~said the~~ district,
4 directing them to show cause on a day certain, not less than
5 15 or more than 30 days from the date of the filing of ~~said~~
6 ~~the~~ petition, why ~~said the~~ petition should not be granted.
7 The judge, at the time of receiving the petition, shall make
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9 further expense or proceeding with the work of constructing
10 a drain. On ~~said the~~ day of hearing the court shall hear the
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15 file a written report, under oath, setting forth the amount
16 of the debts and obligations of ~~said the~~ drainage district.
17 Within 30 days after such report is filed, the court shall
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20 of the final report of the commissioners, as confirmed by
21 the court, and if no final report has been made, then on an
22 area basis. The court shall also enter judgment dissolving
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7 a resolution calling for an election to determine whether or
8 not the voters of said district wish to be governed by
9 Chapter 409, Laws of 1973. The resolution shall contain a
10 short summary of the changes made by Chapter 409, Laws of
11 1973, and shall include the summary as part of the notice
12 provided for by 85-8-303. In addition, the commission shall
13 provide copies of Chapter 409, Laws of 1973, to any person
14 interested in obtaining a copy of the same and the notice to
15 the persons in the district calling the election shall
16 describe where and how copies may be obtained. The
17 commissioners may authorize a reasonable charge for
18 providing said copies, not to exceed 20 cents per page.

19 (e) The ballot shall include the summary as provided
20 for in the preceding subsection and the form of the ballot
21 shall conform as closely as possible to that set forth--in
22 ~~13-27-314~~ provided for in Title 13, Chapter 21.

23 (f) A simple majority of those who cast valid ballots
24 shall determine the outcome of the election."

-End-

SB 40

SENATE BILL NO. 40

INTRODUCED BY BOYLAN, KOLSTAD, GRAHAM, GALT,

HAGER, CONOVER

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO WATER USE; AMENDING SECTIONS 85-6-108, 85-7-1507, 85-7-1612, 85-7-1904, 85-7-1906, 85-7-2204, 85-8-101, 85-8-102, 85-8-118, 85-8-119, 85-8-201, AND 85-8-624, MCA."

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

Section 1. Section 85-6-108, MCA, is amended to read:

"85-6-108. Exemption from payment of fees. Any water users' association organized in conformity with the requirements of the laws of the United States and of the state of Montana, under the Reclamation Act of June 17, 1902, which, under the articles of incorporation, is authorized to furnish water only to its stockholders, shall be exempt from the payment of any incorporation-tax license fee and from the payment of any annual franchise license tax and, upon filing its articles of incorporation with the secretary of state, shall be required to pay only a fee of \$40 for the filing and recording of such articles of incorporation and the issuance of certificate of

incorporation."

Section 2. Section 85-7-1507, MCA, is amended to read:

"85-7-1507. Conflict of interest -- criminal penalty.

No commissioner or any other officer named in this [act] chapter may in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board or in the profits derived therefrom. For any violation of this provision, such officer is guilty of a misdemeanor and his conviction thereof shall work forfeiture of his office and he shall be punished as provided in 45-7-401."

Section 3. Section 85-7-1612, MCA, is amended to read:

"85-7-1612. Board of control -- powers and duties. (1)

The board of control established under and by virtue of this part shall be the operating agent of the contracting districts for the operation and maintenance of irrigation and/or drainage works and the delivery of water therefrom.

(2) The board shall make and execute all necessary contracts; employ and appoint such agents, officers, and employees as may be required; and prescribe their duties.

(3) The board shall have the authority and power to institute and maintain any and all actions and proceedings, and suits at law or in equity, necessary or proper in order to fully carry out the provisions of this [chapter] or to enforce, maintain, protect, or preserve any and all rights, privileges, and immunities created by this part or acquired

1 in pursuance thereof. In all courts, suits, or proceedings,
2 the board may sue, appear, and defend in person or by its
3 attorneys and in the name of such board of control.

4 (4) The board may adopt rules and bylaws governing the
5 calling and holding of meetings of the board; the manner of
6 transacting business thereat; and the publishing or posting
7 of the orders, resolutions, and proceedings of the board. It
8 shall be the duty of ~~said~~ the board to pass or adopt bylaws
9 and rules for the apportionment and distribution of water to
10 the lands of the contracting districts and for the
11 protection and preservation of the works and other property
12 of the ~~said~~ districts. All orders and resolutions shall be
13 passed or adopted by a majority of the members of the board
14 of control by a "yea" and "nay" vote, to be entered upon the
15 records of the board.

16 (5) ~~Said~~ The board of control shall have power
17 generally to do and perform all such other acts as shall be
18 necessary or appropriate to fully carry out the purposes of
19 this part."

20 Section 4. Section 85-7-1904, MCA, is amended to read:

21 "85-7-1904. Acquisition of water and waterworks by
22 board. (1) The board shall have power and authority to:

- 23 (a) appropriate water in the name of the district;
- 24 (b) acquire by purchase, lease, or contract water and
25 water rights; additional waters and supplies of water;

1 canals, reservoirs, dams, and other works already
2 constructed or in the course of construction; and

3 (c) acquire by purchase, lease, contract,
4 condemnation, or other legal means;

5 (i) lands and rights in lands for rights-of-way, for
6 reservoirs, for the storage of needful waters, and for dam
7 sites, and necessary appurtenances; and

8 (ii) such other lands and property as may be necessary
9 for the construction, use, maintenance, repair, improvement,
10 enlargement, and operation of any district system of
11 irrigation works.

12 (2) The board shall have the privilege, if desired, to
13 contract with the owner or owners of such canals,
14 reservoirs, dams, and other works so purchased and in the
15 course of construction for the completion thereof.

16 (3) No purchase, lease, or contract for purchase of
17 any water, water rights, canals, reservoirs, reservoir
18 sites, dam sites, irrigation works, or other property of any
19 nature or kind or for the making or purchasing of surveys,
20 maps, plans, estimates, and specifications or for the
21 purchase of machinery for pumping plants or for the erection
22 of buildings, aqueducts, and other structures necessarily
23 used in connection with such pumping plants, for a price or
24 rental in excess of \$80,000, shall be final or binding upon
25 the district, nor shall said sum be paid without the written

1 consent or petition of at least a majority in number and
 2 acreage of the holders of title or evidence of title to the
 3 lands within the district. Any splitting or division of such
 4 purchase, lease, or contract with the purpose or intention
 5 of avoiding or circumventing the provisions of this section
 6 shall render such divided or split contract or contracts
 7 ~~absolutely null and void.~~"

8 Section 5. Section 85-7-1906, MCA, is amended to read:
 9 "85-7-1906. Relations with United States. (1) For the
 10 purpose of acquiring control over government land within the
 11 district and of complying with the provisions of the act of
 12 congress of August 11, 1916, the board shall have authority
 13 to make such investigations and base thereon such
 14 representations and assurances to the secretary of the
 15 interior as may be requisite.

16 (2) The board may enter into any obligation or
 17 contract with the United States:

18 (a) for the construction, operation, and maintenance
 19 of the necessary works for the delivery and distribution of
 20 water therefrom and the necessary drainage works;

21 (b) for the assumption, as principal or guarantor, of
 22 indebtedness to the United States on account of district
 23 lands, under the provisions of the ~~Federal~~ federal
 24 Reclamation Act of June 11, 1902, all acts amendatory
 25 thereof or supplementary thereto, and the rules and

1 regulations established thereunder; or

2 (c) for a water supply under any act of congress
 3 providing for or permitting such contract.

4 (3) In case contract has been or may hereafter be made
 5 with the United States as herein provided, bonds of the
 6 district may be deposited with the United States at 90% of
 7 their par value, to the amount to be paid by the district to
 8 the United States under any such contract. The interest on
 9 said bonds of the district and regularly paid to the United
 10 States is to be applied as provided in such contract. If
 11 bonds of the district are not so deposited, it shall be the
 12 duty of the board of commissioners to include, as part of
 13 any levy or assessment provided for in 85-7-2101 or
 14 85-7-2132, an amount sufficient to meet each year all
 15 payments accruing under the terms of any such contract. The
 16 board may accept, on behalf of the district, appointment of
 17 the district as fiscal agent of the United States or
 18 authorization of the district by the United States to make
 19 collections of moneys ~~money~~ for or on behalf of the United
 20 States in connection with any federal reclamation project,
 21 whereupon the district shall be authorized to so act and to
 22 assume the duties and liabilities incident to such action.
 23 The board shall have full power to do ~~any and all~~ things
 24 required by the federal statutes now or hereafter enacted in
 25 connection therewith and all things required by the rules

1 and regulations now or that may hereafter be established by
2 any department of the federal government in regard thereto,
3 including the power to require the prompt payment of all
4 charges as prerequisite to water service."

5 Section 6. Section 85-7-2204, MCA, is amended to read:

6 "85-7-2204. Written consent of owners --
7 acknowledgment and recording requirements. Whenever any
8 written consent is required to be given by or obtained from
9 the owner or owners of any lands by any of the provisions of
10 any of the sections of this ~~act~~ ~~chapter~~, such written
11 consent must be acknowledged before some officer authorized
12 to take acknowledgments and shall be filed and recorded in
13 the office of the clerk and recorder of the county in which
14 such lands are situated, and a certified copy thereof must
15 be filed in the office of the clerk of the court in the
16 county in which the proceedings for the organization of such
17 district were instituted. The provisions of this section
18 shall not apply to any petition provided for by this ~~act~~
19 ~~chapter~~, and all such petitions may be signed in any number
20 of original parts with the same effect as though all
21 signatures had been affixed to one instrument."

22 Section 7. Section 85-8-101, MCA, is amended to read:

23 "85-8-101. Petition for creation of district. (1)
24 Whenever a majority of the ~~adult~~ owners of lands within any
25 district of land who shall represent one-third in area of

1 the land within said district to be reclaimed or benefited
2 or whenever the ~~adult~~ owners of more than one-half of the
3 lands within such district desire to construct one or more
4 drains, ditches, levees, waste ditches, or other works
5 across the lands of others or to straighten, widen, deepen,
6 or otherwise alter any natural stream or watercourse not
7 navigable, for the promotion of the public health or welfare
8 and the drainage of ~~said the~~ lands and removal of surface
9 waters therefrom; or desire to maintain and keep in repair
10 any such drain, ditch, or levee heretofore constructed under
11 any law of this state, such owners may file, in the district
12 court of any county in which the lands or any part of them
13 shall lie, a petition setting forth:

14 (a) the proposed name of ~~said the~~ drainage district;

15 (b) the necessity of the proposed work, ~~describing the~~
16 ~~necessity~~;

17 (c) a general description of the proposed starting
18 points, routes, and termini of the proposed drain, ditches,
19 and levees;

20 (d) a general description of the lands proposed to be
21 included in ~~said the~~ district;

22 (e) the names of the owners of all lands in ~~said the~~
23 district, when known.

24 (2) If the purpose of ~~said the~~ petitioners is the
25 enlargement, repair, and maintenance of a ditch, levee, or

1 other work heretofore constructed under any law of this
 2 state, said ~~the~~ petition shall give a general description of
 3 the same, with such particulars as ~~may--be--deemed~~ ~~are~~
 4 ~~considered~~ important. ~~Said~~ ~~the~~ petition shall pray for the
 5 organization of a drainage district by the name and with the
 6 boundaries proposed and for the appointment of commissioners
 7 for the execution of such proposed work, according to the
 8 provisions of this and the following sections.

9 (3) (a) Any lands, the title to which is in the state
 10 of-Montana and which are within the boundaries of any
 11 drainage district heretofore created or which may be
 12 hereafter created, may be included in any such drainage
 13 district in the same manner as is by law provided for adding
 14 other lands to drainage districts whenever it is found
 15 necessary to include lands in drainage districts as provided
 16 by the preceding subsections.

17 (b) ~~Any-and-e~~ All copies of petitions or notices
 18 required by law to be served on account of such lands being
 19 included in such drainage districts shall be served on the
 20 president of the board having control of such lands in the
 21 same manner as is hereinafter provided for the service of
 22 petitions and notices on other owners of lands in the
 23 district in which said lands are situated."

24 Section 8. Section 85-8-102, MCA, is amended to read:
 25 "85-8-102. Amendment and circulation of petition --

1 court consideration. No petition having as many signers as
 2 are required by 85-8-101 may be declared void, but the court
 3 may at any time permit the petition to be amended in form
 4 and substance to conform to the facts, if the facts justify
 5 the organization of a drainage district. Several similar
 6 petitions for the organization of the same district may be
 7 circulated and, when filed, together shall be regarded as
 8 one petition having as many signers as there are separate
 9 ~~adult~~ signers on the several filed petitions who own lands
 10 within the proposed drainage district. All petitions for the
 11 organization of the district filed prior to the hearing on
 12 the petition shall be considered by the court the same as if
 13 filed with the first petitions placed on file, and the
 14 signatures thereon shall be counted in determining whether
 15 sufficient landowners have signed the petition."

16 Section 9. Section 85-8-118, MCA, is amended to read:
 17 "85-8-118. Determination of sufficiency of petition.
 18 The court shall hear and determine whether or not the
 19 petition contains the signatures of a majority of the ~~adult~~
 20 owners of lands within the proposed district who are of
 21 lawful age and who represent one-third in area of the lands
 22 proposed to be affected by said work or the signatures of
 23 the ~~adult~~ owners of more than one-half of such lands, and
 24 shall determine all questions of law arising on said
 25 contest. The district court in which such petition shall be

1 filed or the judge thereof may adjourn the hearing on said
 2 ~~the~~ petition from time to time for want of sufficient
 3 notice, to give time to prepare for trial, or for other good
 4 cause."

5 Section 10. Section 85-8-119, MCA, is amended to read:

6 "85-8-119. Receiving affidavits on question of
 7 petition sufficiency. The affidavits of any 10 or more of
 8 the signers of said ~~the~~ petition, stating that they have
 9 examined it and are acquainted with the locality of said ~~the~~
 10 district and that said ~~the~~ petition is signed by a
 11 sufficient number of adult owners of lands in said ~~the~~
 12 district to satisfy 85-8-101, may be taken by the court or
 13 judge as prima facie evidence of the facts therein stated.
 14 The affidavit of any petitioner or other landowner before
 15 such ~~the~~ court or represented before the court giving the
 16 ~~age-of-such-offrant-and asserting~~ his or--her ownership of
 17 such lands in the district, to be named therein by proper
 18 ~~description, shall--be~~ properly described, is sufficient
 19 evidence to the court of such facts."

20 Section 11. Section 85-8-201, MCA, is amended to read:

21 "85-8-201. Dissolution of districts. Whenever the
 22 adult owners of more than one-half of the lands within any
 23 drainage district organized under the provisions of this
 24 chapter shall present to the district court having
 25 jurisdiction of said ~~the~~ drainage district a petition signed

1 by them, praying that such drainage district be dissolved,
 2 the judge of said ~~the~~ court shall cause notice of such
 3 petition, together with a copy of said ~~the~~ petition, to be
 4 served upon the commissioners of said ~~the~~ district,
 5 directing them to show cause on a day certain, not less than
 6 15 or more than 30 days from the date of the filing of said
 7 ~~the~~ petition, why said ~~the~~ petition should not be granted.
 8 The judge, at the time of receiving the petition, shall make
 9 an order forbidding the commissioners from incurring any
 10 further expense or proceeding with the work of constructing
 11 a drain. On said ~~the~~ day of hearing the court shall hear the
 12 same, and if it appears that the adult owners of more than
 13 one-half of the lands in said ~~the~~ drainage district have
 14 signed said ~~the~~ petition, it shall be granted. Thereupon,
 15 the court shall make an order directing the commissioners to
 16 file a written report, under oath, setting forth the amount
 17 of the debts and obligations of said ~~the~~ drainage district.
 18 Within 30 days after such report is filed, the court shall
 19 cause ~~to--be--spread--or--spread--a--levy~~ an assessment to be
 20 levied against all lands in said ~~the~~ district on the basis
 21 of the final report of the commissioners, as confirmed by
 22 the court, and if no final report has been made, then on an
 23 area basis. The court shall also enter judgment dissolving
 24 said ~~the~~ district and authorize the commissioners to settle
 25 the business of the district on the basis of the final

1 report of said ~~the~~ commissioners or on the area basis as
 2 confirmed by this court, said ~~the~~ commissioners to render
 3 their services for same without pay."

4 Section 12. Section 85-8-624, MCA, is amended to read:

5 "85-8-624. Assessments on improvements -- taxpayers'
 6 approval, limitations, and election procedures. (1) It shall
 7 require a vote of the persons on the assessment rolls in any
 8 existing district to make Chapter 409, Laws of 1973,
 9 applicable to such districts.

10 (2) Nothing in Chapter 409, Laws of 1973, confers upon
 11 districts created for drainage purposes only the authority
 12 to levy assessments on benefits to improvements.

13 (3) The election provided for by subsection (1) shall
 14 be governed by the following rules:

15 (a) Notice of the election shall be as provided in
 16 85-8-303, except that the form of the ballot shall be as
 17 hereinafter provided.

18 (b) The manner of conducting the election shall be as
 19 provided in 85-8-304.

20 (c) The qualifications of electors shall be as
 21 provided in 85-8-305, except that, in addition to persons
 22 holding title or evidence of title to lands within the
 23 district, any person as therein defined who does not own
 24 land within the district but has been assessed or will have
 25 his improvements assessed under Chapter 409, Laws of 1973,

1 or who will be assessed for benefits received shall be
 2 entitled to one vote. Commissioners shall prepare a list of
 3 such persons and give them notice as provided in 85-8-303.

4 (d) The commissioners of any district in existence
 5 prior to March 21, 1973, who wish to hold an election to
 6 determine if the district shall be governed by Chapter 409,
 7 Laws of 1973, shall at any regular or special meeting adopt
 8 a resolution calling for an election to determine whether or
 9 not the voters of said district wish to be governed by
 10 Chapter 409, Laws of 1973. The resolution shall contain a
 11 short summary of the changes made by Chapter 409, Laws of
 12 1973, and shall include the summary as part of the notice
 13 provided for by 85-8-303. In addition, the commission shall
 14 provide copies of Chapter 409, Laws of 1973, to any person
 15 interested in obtaining a copy of the same and the notice to
 16 the persons in the district calling the election shall
 17 describe where and how copies may be obtained. The
 18 commissioners may authorize a reasonable charge for
 19 providing said copies, not to exceed 20 cents per page.

20 (e) The ballot shall include the summary as provided
 21 for in the preceding subsection and the form of the ballot
 22 shall conform as closely as possible to that set forth--in
 23 ~~§ 27-314~~ provided for in Title 13, chapter 27.

24 (f) A simple majority of those who cast valid ballots
 25 shall determine the outcome of the election."