

HOUSE BILL NO. 269

INTRODUCED BY McLANE, ASAY, FEDA, VINGER, BRIGGS,
CONROY, DEVLIN, DONALDSON, METCALF, SIVERTSEN,
ROTH, BURNETT, CURTISS, KEYSER, THOFT

IN THE HOUSE

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| January 16, 1981 | Introduced and referred to Committee on Water. |
| February 4, 1981 | Committee recommend bill do pass as amended. Report adopted. |
| February 5, 1981 | Bill printed and placed on members' desks. |
| February 6, 1981 | Second reading, do pass. |
| February 7, 1981 | Correctly engrossed. |
| February 9, 1981 | Third reading, passed. Transmitted to Senate. |

IN THE SENATE

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|-------------------|---|
| February 10, 1981 | Introduced and referred to Committee on Agriculture, Livestock, and Irrigation. |
| March 5, 1981 | Committee recommend bill be concurrent in. Report adopted. |
| March 7, 1981 | Second reading, concurred in. |
| March 10, 1981 | Third reading, concurred in. Ayes, 47; Noes, 0. |

IN THE HOUSE

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|----------------|---|
| March 11, 1981 | Returned from Senate. Con- curred in. Sent to enrolling. Reported correctly enrolled. |
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HOUSE BILL NO. 269

INTRODUCED BY *McPhee* *Asay* *Archer* *Vingert* *Conroy*
Donalds *Molloy* *Stewart* *Boh* *Burnett*
Curtis *Heyster* *Staff*

A BILL FOR AN ACT ENTITLED: AN ACT TO GENERALLY REVISE THE
LAW CONCERNING THE ADMINISTRATION OF IRRIGATION DISTRICTS;
REMOVING THE MONETARY LIMITS ON CERTAIN LEVIES; RAISING THE
COMPENSATION AND EXPENSE ALLOWANCES OF CERTAIN BOARD
MEMBERS; PROVIDING THAT VACANCIES BE FILLED UNTIL THE NEXT
ELECTION; PROVIDING THAT DOCUMENTS BE FILED IN THE COUNTY
WHEREIN THE OFFICE OF THE BOARD IS LOCATED; RAISING MINIMUM
CONTRACT AMOUNT FOR WHICH BOARD MUST HAVE PRIOR TITLEHOLDER
APPROVAL; REMOVING THE REQUIREMENT THAT ALL IRRIGATION WORKS
BE DONE BY CONTRACT; AMENDING SECTIONS 85-7-205, 85-7-306,
85-7-1505, 85-7-1613, 85-7-1703, 85-7-1713, 85-7-1904, AND
85-7-1941, MCA."

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

Section 1. Section 85-7-205, MCA, is amended to read:
"85-7-205. Duty of trustees, levy, and indebtedness.
The board of trustees may develop the source of supply;
clean, improve, and develop the channel of the stream; and
do and perform other work on the main distributing system as
will be beneficial to the better distribution of the waters
of the decreed water right stream; ~~but in no case~~ and may
~~the board to~~ cover the expenses of such work, by levy to

exceed 25 cents per acre in any one year. Whenever waters of
the stream under the irrigation district created by this
part are commingled with other waters or it is difficult to
determine how many acres are irrigable by the water rights
held in the stream, the acre basis of levy shall be
determined by the number of cubic feet of water per second
owned by such party or parties at the rate of .025 cubic
feet of water per second to the acre. The board may not
issue bonds or incur any indebtedness other than warrant
indebtedness under the limitations imposed by law."

Section 2. Section 85-7-306, MCA, is amended to read:
"85-7-306. Development of water supply -- ~~limit on~~
levy for expenses. The board of commissioners of such
irrigation district shall have authority to develop the
source of supply and increase the means of distribution of
water to the end that all owners of water rights under ~~said~~
~~the~~ system shall receive the amount of water which can be
beneficially used upon their lands within the district. ~~Not~~
~~more than \$4 per acre shall be levied~~ The board may levy
against each irrigable acre of land in the district ~~in any~~
~~one year~~ on account of administrative expenses, cost of
maintenance and repairs, development of water supply, or
enlargement of distribution facilities."

Section 3. Section 85-7-1505, MCA, is amended to read:
"85-7-1505. Compensation and expenses of

1 commissioners. The commissioners, when sitting as a board or
 2 when engaged in the business of the district, shall each
 3 receive an amount not to exceed \$20 a day for services are
 4 entitled to compensation for board members as provided in
 5 2-15-124 and to reimbursement for travel expenses as
 6 provided in 2-18-501 through 2-18-503, and in addition
 7 thereto for their necessary expenses in attending meetings
 8 or when otherwise engaged on district business, including
 9 premiums on qualifying bonds and any other bonds required of
 10 them in connection with their office, provided such travel
 11 and other necessary expenses and per diem are must be
 12 approved by a unanimous vote of the board, and a mileage
 13 allowance of 12 cents a mile in attending board meetings or
 14 when engaged in the business of the irrigation district."

15 Section 4. Section 85-7-1613, MCA, is amended to read:

16 "85-7-1613. Board of control -- per diem and expenses.
 17 The members of the board of control, when sitting as a board
 18 or when engaged in the business of the board, shall receive
 19 for services not to exceed \$15 per day are entitled to
 20 compensation for board members as provided in 2-15-124 and
 21 to reimbursement for travel expenses as provided in 2-18-501
 22 through 2-18-503, and in addition thereto for their
 23 necessary expenses in attending meetings or when otherwise
 24 engaged in board of control business."

25 Section 5. Section 85-7-1703, MCA, is amended to read:

1 "85-7-1703. Vacancies among commissioners. In case of
 2 a vacancy in the board of commissioners, from any cause,
 3 such vacancy shall be filled for the remainder of the term
 4 until the next regular or special election by appointment by
 5 the judge of the district court of the county in which the
 6 division or major portion thereof is situated. The appointee
 7 shall be an owner of land within the district, shall be a
 8 resident of the county in which the division of the district
 9 (or some portion of the division for which such commissioner
 10 is so elected) is situated, and shall hold office until his
 11 successor is elected and qualified."

12 Section 6. Section 85-7-1713, MCA, is amended to read:

13 "85-7-1713. Where documents to be filed and
 14 proceedings to be held. Where the lands of a district lie
 15 within more than one county, all petitions, papers,
 16 documents, or other instruments shall be filed and
 17 proceedings had in the county containing the greater portion
 18 of said district in which the office of the board is
 19 established."

20 Section 7. 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 ~~\$60,000~~ \$100,000, ~~shall be~~ is final or
25 binding upon the district, ~~nor shall said~~ and no sum may be

1 paid without the written consent or petition of at least a
2 majority in number and acreage of the holders of title or
3 evidence of title to the lands within the district. Any
4 splitting or division of such purchase, lease, or contract
5 with the purpose or intention of avoiding or circumventing
6 the provisions of this section shall render such divided or
7 split contract or contracts void."

8 Section 8. Section 85-7-1941, MCA, is amended to read:

9 "85-7-1941. Contracts. (1) The construction by the
10 district of ~~all~~ irrigation works of ~~every kind whatsoever~~
11 ~~amounting to \$5,000 or more shall~~ may be done by the
12 district, by private owners, or by contract.

13 (2) Before any such contract is let, the board of
14 commissioners shall employ competent engineers to make
15 surveys, plans, maps, and estimates, which shall include
16 everything necessary to show the entire cost in detail of
17 everything necessary to complete the work required to
18 irrigate any of the lands in the district under the proposed
19 system.

20 (3) Notice of any contract to be awarded for the
21 construction of such works shall state where the plans and
22 specifications may be seen and shall be published at least
23 once a week for 3 successive calendar weeks in a newspaper
24 published or of general circulation in the county where the
25 office of the district is located. Sealed bids shall be

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LC 0781/01

1 called for in such published notice, and bids shall be
2 opened in public."

-End-

Approved by the
Select Committee on Water

HOUSE BILL NO. 269

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The board of trustees may develop the source of supply;
clean, improve, and develop the channel of the stream; and
do and perform other work on the main distributing system as
will be beneficial to the better distribution of the waters

of the decreed water right stream, ~~but in no case~~ and may
~~the board~~ to cover the expenses of such work, by levy to
~~exceed 25 cents per acre in any one year.~~ Whenever waters of
the stream under the irrigation district created by this
part are commingled with other waters or it is difficult to
determine how many acres are irrigable by the water rights
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determined by the number of cubic feet of water per second
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feet of water per second to the acre. The board may not
issue bonds or incur any indebtedness other than warrant
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Section 2. Section 85-7-306, MCA, is amended to read:

"85-7-306. Development of water supply -- ~~time on~~
levy for expenses. The board of commissioners of such
irrigation district shall have authority to develop the
source of supply and increase the means of distribution of
water to the end that all owners of water rights under ~~said~~
the system shall receive the amount of water which can be
beneficially used upon their lands within the district. ~~Not~~
~~more than \$4 per acre shall be levied~~ The board may levy
against each irrigable acre of land in the district ~~in any~~
~~one year~~ on account of administrative expenses, cost of
maintenance and repairs, development of water supply, or
enlargement of distribution facilities."

1 Section 3. Section 85-7-1505, MCA, is amended to read:
 2 "85-7-1505. Compensation and expenses of
 3 commissioners. The commissioners, when sitting as a board or
 4 when engaged in the business of the district, shall each
 5 receive an amount not to exceed \$20 a day for services are
 6 entitled to compensation for board members as provided in
 7 2-15-124 and to reimbursement for travel expenses as
 8 provided in 2-18-501 through 2-18-503, and in addition
 9 thereto for their necessary expenses in attending meetings
 10 or when otherwise engaged on district business, including
 11 premiums on qualifying bonds and any other bonds required of
 12 them in connection with their office, provided such travel
 13 and other necessary expenses and per diem are must be
 14 approved by a unanimous vote of the board, and a mileage
 15 allowance of 12 cents a mile in attending board meetings or
 16 when engaged in the business of the irrigation district."

17 Section 4. Section 85-7-1613, MCA, is amended to read:
 18 "85-7-1613. Board of control -- per diem and expenses.
 19 The members of the board of control, when sitting as a board
 20 or when engaged in the business of the board, shall receive
 21 for services not to exceed \$15 per day are entitled to
 22 compensation for board members as provided in 2-15-124 and
 23 to reimbursement for travel expenses as provided in 2-18-501
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 25 necessary expenses in attending meetings or when otherwise

1 engaged in board of control business."

2 Section 5. Section 85-7-1703, MCA, is amended to read:
 3 "85-7-1703. Vacancies among commissioners. In case of
 4 a vacancy in the board of commissioners, from any cause,
 5 such vacancy shall be filled for the remainder of the term
 6 until the next regular or special election by appointment by
 7 the judge of the district court of the county in which the
 8 division or major portion thereof is situated. The appointee
 9 shall be an owner of land within the district, shall be a
 10 resident of the county in which the division of the district
 11 (or some portion of the division for which such commissioner
 12 is so elected) is situated, and shall hold office until his
 13 successor is elected and qualified."

14 Section 6. Section 85-7-1713, MCA, is amended to read:
 15 "85-7-1713. Where documents to be filed and
 16 proceedings to be held. Where the lands of a district lie
 17 within more than one county, all petitions, papers,
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 20 of said district in which the office of the board is
 21 established."

22 Section 7. Section 85-7-1904, MCA, is amended to read:
 23 "85-7-1904. Acquisition of water and waterworks by
 24 board. (1) The board shall have power and authority to:
 25 (a) appropriate water in the name of the district;

1 (b) acquire by purchase, lease, or contract water and
 2 water rights; additional waters and supplies of water;
 3 canals, reservoirs, dams, and other works already
 4 constructed or in the course of construction; and

5 (c) acquire by purchase, lease, contract,
 6 condemnation, or other legal means:

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 8 reservoirs, for the storage of needful waters, and for dam
 9 sites and necessary appurtenances; and

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

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

18 (3) No purchase, lease, or contract for purchase of
 19 any water, water rights, canals, reservoirs, reservoir
 20 sites, dam sites, irrigation works, or other property of any
 21 nature or kind or for the making or purchasing of surveys,
 22 maps, plans, estimates, and specifications or for the
 23 purchase of machinery for pumping plants or for the erection
 24 of buildings, aqueducts, and other structures necessarily
 25 used in connection with such pumping plants, for a price or

1 rental in excess of ~~\$80,000~~ ~~\$100,000~~ \$125,000, shall be is
 2 final or binding upon the district, ~~nor shall--said~~ and no
 3 sum may be paid FOR SUCH PURCHASE, LEASE, OR CONTRACT
 4 without the written consent or petition of at least a
 5 majority in number and acreage of the holders of title or
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11 Section 8. Section 85-7-1941, MCA, is amended to read:

12 "85-7-1941. Contracts. (1) The construction by the
 13 district of ~~all~~ irrigation works of every kind whatsoever
 14 ~~amounting to \$5,000 or more shall~~ may be done by the
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16 (2) Before any such contract is let, the board of
 17 commissioners shall ~~employ--competent--engineers--to--make~~
 18 PROVIDE surveys, plans, maps, and estimates, which shall
 19 include everything necessary to show the entire cost in
 20 detail of everything necessary to complete the work required
 21 to irrigate any of the lands in the district under the
 22 proposed system.

23 (3) Notice of any contract to be awarded for the
 24 construction of such works shall state where the plans and
 25 specifications may be seen and shall be published at least

1 once a week for 3 successive calendar weeks in a newspaper
2 published or of general circulation in the county where the
3 office of the district is located. Sealed bids shall be
4 called for in such published notice, and bids shall be
5 opened in public."

-End-

1 HOUSE BILL NO. 269

2 INTRODUCED BY McLANE, ASAY, FEOLA, VINGER, BRIGGS,

3 CONROY, DEVLIN, DONALDSON, METCALF, SIVERTSEN,

4 ROTH, BURNETT, CURTISS, KEYSER, THOFT

5
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1 of the decreed water right stream--but-in-no-case and may
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18 "85-7-1613. Board of control -- per diem and expenses.
19 The members of the board of control, when sitting as a board
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21 for services not to exceed \$15 per day are entitled to
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24 construction of such works shall state where the plans and
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1 once a week for 3 successive calendar weeks in a newspaper
2 published or of general circulation in the county where the
3 office of the district is located. Sealed bids shall be
4 called for in such published notice, and bids shall be
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INTRODUCED BY McLANE, ASAY, FEDA, VINGER, BRIGGS,
CONROY, DEVLIN, DONALDSON, METCALF, SIVERTSEN,
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determined by the number of cubic feet of water per second
owned by such party or parties at the rate of .025 cubic
feet of water per second to the acre. The board may not
issue bonds or incur any indebtedness other than warrant
indebtedness under the limitations imposed by law."

Section 2. Section 85-7-306, MCA, is amended to read:

~~"85-7-306. Development of water supply -- limit on~~
levy for expenses. The board of commissioners of such
irrigation district shall have authority to develop the
source of supply and increase the means of distribution of
water to the end that all owners of water rights under said
the system shall receive the amount of water which can be
beneficially used upon their lands within the district. Not
~~more than \$4 per acre shall be levied~~ The board may levy
against each irrigable acre of land in the district ~~in any~~
~~one year~~ on account of administrative expenses, cost of
maintenance and repairs, development of water supply, or
enlargement of distribution facilities."

1 Section 3. Section 85-7-1505, MCA, is amended to read:

2 "85-7-1505. Compensation and expenses of
3 commissioners. The commissioners, when sitting as a board or
4 when engaged in the business of the district, ~~shall each~~
5 ~~receive an amount not to exceed \$20 a day for services~~ are
6 entitled to compensation for board members as provided in
7 2-15-124 and to reimbursement for travel expenses as
8 provided in 2-18-501 through 2-18-503, and, in addition
9 thereto, for their necessary expenses in attending meetings
10 or when otherwise engaged on district business, including
11 premiums on qualifying bonds and any other bonds required of
12 them in connection with their office, provided such travel
13 and other necessary expenses and per diem are must be
14 approved by a unanimous vote of the board, and a mileage
15 allowance of 12 cents a mile in attending board meetings or
16 when engaged in the business of the irrigation district."

17 Section 4. Section 85-7-1613, MCA, is amended to read:

18 "85-7-1613. Board of control -- per diem and expenses.
19 The members of the board of control, when sitting as a board
20 or when engaged in the business of the board, shall receive
21 for services not to exceed \$15 per day are entitled to
22 compensation for board members as provided in 2-15-124 and
23 to reimbursement for travel expenses as provided in 2-18-501
24 through 2-18-503, and, in addition thereto, for their
25 necessary expenses in attending meetings or when otherwise

1 ~~engaged in board of control business."~~

2 Section 5. Section 85-7-1703, MCA, is amended to read:

3 "85-7-1703. Vacancies among commissioners. In case of
4 a vacancy in the board of commissioners, from any cause,
5 such vacancy shall be filled ~~for the remainder of the term~~
6 until the next regular or special election by appointment by
7 the judge of the district court of the county in which the
8 division or major portion thereof is situated. The appointee
9 shall be an owner of land within the district, shall be a
10 resident of the county in which the division of the district
11 (or some portion of the division for which such commissioner
12 is so elected) is situated, and shall hold office until his
13 successor is elected and qualified."

14 Section 6. Section 85-7-1713, MCA, is amended to read:

15 "85-7-1713. Where documents to be filed and
16 proceedings to be held. Where the lands of a district lie
17 within more than one county, all petitions, papers,
18 documents, or other instruments shall be filed and
19 proceedings had in the county ~~containing the greater portion~~
20 of said district in which the office of the board is
21 established."

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

23 "85-7-1904. Acquisition of water and waterworks by
24 board. (1) The board shall have power and authority to:
25 (a) appropriate water in the name of the district;

1 (b) acquire by purchase, lease, or contract water and
2 water rights; additional waters and supplies of water;
3 canals, reservoirs, dams, and other works already
4 constructed or in the course of construction; and

5 (c) acquire by purchase, lease, contract,
6 condemnation, or other legal means:

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

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

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

18 (3) No purchase, lease, or contract for purchase of
19 any water, water rights, canals, reservoirs, reservoir
20 sites, dam sites, irrigation works, or other property of any
21 nature or kind or for the making or purchasing of surveys,
22 maps, plans, estimates, and specifications or for the
23 purchase of machinery for pumping plants or for the erection
24 of buildings, aqueducts, and other structures necessarily
25 used in connection with such pumping plants, for a price or

1 rental in excess of \$80,000 ~~\$100,000~~ \$125,000, shall be is
2 final or binding upon the district, ~~nor shall said~~ and no
3 sum may be paid FOR SUCH PURCHASE, LEASE, OR CONTRACT
4 without the written consent or petition of at least a
5 majority in number and acreage of the holders of title or
6 evidence of title to the lands within the district. Any
7 splitting or division of such purchase, lease, or contract
8 with the purpose or intention of avoiding or circumventing
9 the provisions of this section shall render such divided or
10 split contract or contracts void."

11 Section 8. Section 85-7-1941, MCA, is amended to read:
12 "85-7-1941. Contracts. (1) The construction by the
13 district of ~~all~~ irrigation works ~~of every kind whatsoever~~
14 ~~amounting to \$5,000 or more shall~~ may be done by the
15 district, by private owners, or by contract.

16 (2) Before any such contract is let, the board of
17 commissioners shall ~~employ competent engineers to make~~
18 PROVIDE surveys, plans, maps, and estimates, which shall
19 include everything necessary to show the entire cost in
20 detail of everything necessary to complete the work required
21 to irrigate any of the lands in the district under the
22 proposed system.

23 (3) Notice of any contract to be awarded for the
24 construction of such works shall state where the plans and
25 specifications may be seen and shall be published at least

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1 once a week for 3 successive calendar weeks in a newspaper
2 published or of general circulation in the county where the
3 office of the district is located. Sealed bids shall be
4 called for in such published notice, and bids shall be
5 opened in public."

-End-