HOUSE BILL NO. 265

INTRODUCED BY MCBRIDE, BLAYLOCK

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

IN THE HOUSE

	IN THE HOUSE
January 15, 1983	Introduced and referred to Committee on Judiciary.
January 27, 1983	Committee recommend bill do pass as amended. Report adopted.
January 28, 1983	Bill printed and placed on members' desks.
January 29, 1983	Second reading, do pass.
January 31, 1983	Considered correctly engrossed.
February 1, 1983	Third reading, passed. Transmitted to Senate.
	IN THE SENATE
February 2, 1983	Introduced and referred to Committee on Judiciary.
March 4, 1983	Committee recommend bill be concurred in. Report adopted.
March 7, 1983	Second reading, concurred in.
March 9, 1983	Third reading, concurred in. Ayes, 48; Noes, 2.
	IN THE HOUSE
March 9, 1983	Returned to House.
March 10, 1983	Sent to enrolling.

Reported correctly enrolled.

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House BILL, NO. 265
INTRODUCED BY McBride Blaylach
BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING CERTAIN QUALIFICATIONS FOR CONDEMNATION COMMISSIONERS IN EMINENT DOMAIN PROCEEDINGS AND PROVIDING FOR THEIR COMPENSATION; AMENDING SECTION 70-30-207, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 70-30-207, MCA, is amended to read: "70-30-207. Appointment of commissioners qualifications -- affidavit -- compensation (1) Immediately upon making and entering the preliminary condemnation order, the judge must meet with the respective parties or their attorneys of record for the purpose of appointing condemnation commissioners to ascertain and determine the amount to be paid by the plaintiff to each owner or other persons interested in such property by reason of the appropriation of such property. The appointment of condemnation commissioners and the commission hearing may be waived by written consent of both parties, in which case the proceeding shall be conducted in the district court as if the case had been appealed from an award by

2	(2) The court must thereupon appoint three qualified
3	disinterested condemnation commissioners, unless appointmen
4	has been waived. One of such commissioners shall b
5	nominated by the party or parties plaintiff. One of suc
6	commissioners shall be nominated by the party or partie
7	defendant. The third commissioner shall be the chairman an
8	shall be nominated by the two commissioners previous
9	nominated. However, if said two commissioners fail to mak
10	such choice at the time of their appointment, then suc
11	nomination shall be made by the presiding judge.
12	(3)Eachcommissionershallpossessthefollowin
13	qualifications
14	(a)a-citizen-of-the-United-States-and-over18year
15	of-age;
16	(b)that-he-is-not-more-than-70-years-of-age;
17	(c)-that-he-is-in-possession-of-natural-faculties,-o
18	ordinary-intelligencey-and-not-decrepit;
19	(d)that-hc-is-possessed-ofsufficientknowledgeo
20	the -E nglish-language;
21	{c}thathewas-assessed-on-the-last-assessment-rol -
22	nf-a-esunty-within-the-judicisl-district-in-which-the-acti o
23	is-pendingt
24	(f)that-he-has-nat-been-convicted-ofmalfeasoncei

commissioners.

office-or-any-felony-or-other-high-crimet

(g)that h	is-not-related-	within-the-sixth	-degree to
any-partys			

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(h)--that-he-does-not-stand-in-the-relation-of-guardian

and-wardy--master--and--servanty--debtor--and--creditory--or

principal-and-agent-or-partner-or-surety-os-to-any-party-

(4)(3) At the time of such meeting and nominations, there shall be filed with the court by each nominating party or judge an affidavit of the person so nominated stating substantially as follows:

- (a) that he has formed no unqualified opinion or belief as to the compensation to be awarded in the proceeding or as to the fairness or unfairness of the plaintiff's offer for the lands and improvements of the defendants:
- (b) that he has no enmity against or bias in favor of any party and has not discussed, communicated, or overheard or read any discussion or communication from any party relating to values of the lands in question or the compensation offered, demanded, or to be awarded;
- (c) that if selected as a condemnation commissioner, he is willing to serve and will well and truly try the issues of compensation and render a true decision according to the evidence and in compliance with the instructions of the court;
 - (d) that he will not discuss the case with anyone

- except the other commissioners until a decision has been
 filed with the court.
- 14) (a) The court shall specify the compensation of

 4 the condemnation commissioners, which may not exceed \$250 a

 5 hearing day, including expenses, Each party shall pay the

 6 compensation of the commissioner he nominated, and the cost
- 7 of compensating the third commissioner must be divided
- 9 (b) If the decision of the condemnation commissioners
- 10 is appealed pursuant to 70-30-304 and the appealing party
- 11 does not receive an amount that exceeds the amount
- 12 recommended by the commission, the appealing party shall pay
- 13 the compensation of all the condemnation commissioners.
- 14 (c) If both parties appeal, the commissioners shall be
- 15 paid as provided in subsection [4][a].*

equally between the parties.

- 16 NEW SECTION. Section 2. Effective date. This act is
- 17 effective July 1: 1983.

48th Legislature HB 0265/02

HOUSE BILL NO. 345

Approved by Committee on Judiciary

	MOOSE BILE NO. 205
2	INTRODUCED BY MCBRIDE, BLAYLOCK
3	BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING CERTAIN
6	QUALIFICATIONS FOR CONDEMNATION COMMISSIONERS IN EMINENT
7	DOMAIN PROCEEDINGS AND PROVIDING FOR THEIR COMPENSATION;
8	AMENDING SECTION 70-30-207, MCA; AND PROVIDING AN EFFECTIVE
9	DATE."
0	
1	BF IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12	Section 1. Section 70-30-207, MCA, is amended to read:
13	770-30-207• Appointment of commissioners
۱4	qualifications affidavit compensation. (1) Immediately
15	upon making and entering the preliminary condemnation order:
16	the judge must meet with the respective parties or their
17	attorneys of record for the purpose of appointing
18	condemnation commissioners to ascertain and determine the
19	amount to be paid by the plaintiff to each owner or other
20	persons interested in such property by reason of the
21	appropriation of such property. The appointment of
22	condemnation commissioners and the commission hearing may be
23	waived by written consent of both parties, in which case the
4	proceeding shall be conducted in the district rourt as if

the case had been appealed from an award by such

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COMM i	ssio	ners.

disinterested condemnation commissioners, unless appointment
has been waived. One of such commissioners shall be
nominated by the party or parties plaintiff. One of such
commissioners shall be nominated by the party or parties
defendant. The third commissioner shall be the chairman and
shall be nominated by the two commissioners previously
nominated. However, if said two commissioners fail to make
such choice at the time of their appointment, then such
nomination shall be made by the presiding judge.

- 13 CUALIFICATIONS:

 13 GUALIFICATIONS:
 - ## 13) -- Each -- commissioner -- shall -- possess -- the -- following
 qualifications*
- 16 {a}--a--e+t+zen--of-the-United-States-and-over-18-years
 17 of-aget
- 18 fb;--that-he-is-net-more-than-79-years-of-age;
- 19 tc)--that-he-is-in-possession-of-natural-facultiesy--of
 20 ordinary-intelligences-and-not-decreaits
- 20 ordinary-intelligences-and-not-decrepits
- 21 (d)--that--he--is--possessed-of-sufficient-knowledge-of22 the-English-language;
- 23 tet--that-he-was-assessed-on-the-fast--assessment--roft
- 24 of-a-county-within-the-judicial-district-in-which-the-action

-2-

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1	(f)thathehas-not-been-convicted-of-malfeasance-in
5	office-or-any-felony-or-other-high-crime;
3	fg}that-he-is-not-related-within-the-sixth-degreeto
4	any-partyt
5	(h)that-he-does-not-stand-in-the-relation-of-guardian
6	andwardymasterandservantydebtorandereditory-or
7	principal-and-agent-or-partmer-or-surety-as-to-any-party*
8	(A) THAT HE IS POSSESSED OF SUFFICIENT KNOWLEDGE OF
9	IHE_ENGLISH_LANGUAGE:
0	(B) THAT HE IS A RESIDENT OF A COUNTY WITHIN THE
1	JUDICIAL DISTRICT IN WHICH THE ACTION IS PENDING:
.2	1C1 THAT HE IS NOT RELATED WITHIN THE SIXTH DEGREE TO
3	ANY PARTY: AND
4	101 THAT HE DOES NOT STAND IN THE RELATION OF GUARDIAN
5	AND WARDS MASTER AND SERVANTS DESTOR AND CREDITORS OR
6	PRINCIPAL AND AGENT OR PARTNER OR SURETY AS TO ANY PARTY.
7	ff)t3t141 At the time of such meeting and nominations,
8	there shall be filed with the court by each nominating party
9	or judge an affidavit of the person so nominated stating
0	substantially as follows:
ı	(a) that he has formed no unqualified opinion or
2	belief as to the compensation to be awarded in the
3	proceeding or as to the fairness or unfairness of the
4	plaintiff's offer for the lands and improvements of the

defendants;

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2	any party and has not discussed, communicated, or overheard
3	or read any discussion or communication from any party
4	relating to values of the lands in question or the
5	compensation offered, demanded, or to be awarded;
6	(c) that if selected as a condemnation commissioner,
7	he is willing to serve and will well and truly try the
8	issues of compensation and render a true decision according
9	to the evidence and in compliance with the instructions of
10	the court;
11	(d) that he will not discuss the case with anyone
12	except the other commissioners until a decision has been
13	filed with the court.
14	ttt(5)tat The court shall specify the compensation
15	of the condemnation commissioners, which may not exceed \$250
16	a bearing days including expenses. Each IHE CONDEMNING party
17	shall pay the compensation of the commissioner he
18	COMMISSIONERS nominated = and = the cost of compensating the
19	third-commissionermustbedividedcquolivbetweentnz
20	parties.
21	<pre>fbtifthe-decision-of-the-condemnation-commissionscs</pre>
22	is-appealed-pursuant-to-10-30-304-and-the-appealing-purty
23	doesnotreceiveanamountthatexceedstheamount
24	recommended_bx-the-commissionx-the-oppending-party-shall-pay

the-compensation-of-all-the-condemnation-commissionerss

(b) that he has no enmity against or bias in favor of

1	fel==If=beth	paftici-oppe	ołx <u>-the-co</u> m	<u>mission</u>	ers-sb	ett:	þ¢
2	poid <u>-os-provided-i</u>	<u>n-aubaectio</u>	<u> táltok</u> #"				
3	NEW_SECTION.	Section 2.	Effective	date•	This	act	i S
4	effective buly 1.	1083.					

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9	DATE."
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13	770-30-207. Appointment of commissioners
14	qualifications affidavit <u> compensation</u> . (1) Immediately
15	upon making and entering the preliminary condemnation order,
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18	condemnation commissioners to ascertain and determine the
19	amount to be paid by the plaintiff to each owner or other
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22	condemnation commissioners and the commission hearing may be
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24	proceeding shall be conducted in the district court as if
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3	disinterested condemnation commissioners, unless appointment
4	has been waived. One of such commissioners shall be
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8	shall be nominated by the two commissioners previously
9	nominated. However, if said two commissioners fail to make
10	such choice at the time of their appointment, then such
11	nomination shall be made by the presiding judge.
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17	of-ages
18	fb}that-he-is-not-more-than-78-years-of-age;
19	<pre>fc}that-he-is-in-possession-of-natural-facultiesyof</pre>
20	ordinary-intelligencey-and-not-decrepit;
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22	the-English-longuages
23	(e)that-he-was-assessed-on-the-lastassessmentroll

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is-pendingt

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2	office-or-any-felony-or-other-high-crime;
3	(g)that-he-is-not-related-within-the-sixth-degreeto
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16	PRINCIPAL AND AGENT OR PARTNER OR SURETY AS ID ANY PARTY.
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1	ich-if-both-parties-appealx-the-commissioners-shall-b				
2	poid_az_provided_in_subsection_f5}fax*				
3	NEW SECTION. Section 2. Effective date. This act is				
4	effective July 1, 1983.				

48th Legislature HB 0265/02 HB 0265/02

1	HOUSE	BILL	NO.	265

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2 (2) The court must thereupon appoint three qualified,
3 disinterested condemnation commissioners, unless appointment
4 has been waived. One of such commissioners shall be
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8 shall be nominated by the two commissioners previously
9 nominated. However, if said two commissioners fail to make
10 such choice at the time of their appointment, then such
11 nomination shall be made by the presiding judge.

- 12 (3) EACH COMMISSIONER SHALL POSSESS THE FOLLOWING
 13 QUALIFICATIONS:
- 14 #37--Each--commissioner--shall--possess--the--following
 15 qualifications*
- 16 fat--e-citizen--of-the-United-States-and-over-18-years
 17 of-age:
- 18 {b}--that-he-is-mot-more-than-70-years-of-age;
- 19 (c)--that-he-is-in-possession-of-notural-facultiesy--of 20 ordinary-intelligencey-and-not-decrepits
- 21 (d)--that--he--is--possessed-of-sufficient-knowledge-of
 22 the-English-lenguage;
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- 24 of-a-county-within-the-judicial-district-in-which-the-action
- 25 is-pendings

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18	there shall be filed with the court by each nominating party					
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23	proceeding or as to the fairness or unfairness of the					
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(b) that he has no enmity against or blas in favor or
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(d) that he will not discuss the case with anyone
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of the condemnation commissioners, which way not exceed 125
a_bearing_days_including_expenses. Ench IHE_CONDEMNING pact
shall_pay_the_compensation_of_the commissionec:::b
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third=commissioner==must==be==diwided==equaliv==between==tb
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defendants;

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2	psid:na:proxided:in <u>-aubaection-iiiioi</u> z"						
3	AFH-ZECIION.	Section 2.	Effective	date.	This	act	is
4	effective July 1, 1	.983•					