

HOUSE BILL NO. 409

Introduced: 01/19/83

Referred to Committee on Agriculture, Livestock, & Irrigation:
01/19/83
Hearing: 1/26/83
Report, 01/31/83, Do Not Pass
Bill Killed: 02/01/83

1 House BILL NO. 409
2 INTRODUCED BY Ream
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A MEANS BY
5 WHICH SMALL SEPARATELY OWNED TRACTS OF LAND WITHIN AN
6 IRRIGATION DISTRICT THAT ARE UNABLE TO RECEIVE WATER MAY BE
7 RELIEVED OF IRRIGATION DISTRICT ASSESSMENT; AMENDING
8 SECTIONS 85-7-2103 AND 85-7-2104, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. Section 85-7-2103, MCA, is amended to read:
12 "85-7-2103. All irrigable lands chargeable alike. (1)
13 All irrigable lands in each irrigation district, except such
14 lands that are included within the district because of the
15 exchange or substitution of water under the provisions of
16 85-7-1912, shall pay at the same rate for all purposes for
17 which the lands are charged, except as otherwise provided by
18 law. There may be a charge of ~~\$5 to not more than~~ \$25
19 against each separately owned tract of land regardless of
20 its size, as provided in 85-7-2104. However, a separately
21 owned tract of land of 1 acre or less and unable to receive
22 water may be charged not more than the ~~\$5 minimum~~ not be
23 charged for district purposes. Whenever water used for the
24 irrigation of any lands within an irrigation district is
25 obtained by pumping to different elevations, the cost of

1 maintenance, operation, and pumping to each separate
2 elevation shall be apportioned and levied upon the lands
3 lying under the ditch or ditches running from that
4 particular elevation, in such manner as may be determined
5 fair and equitable by the board of commissioners after
6 considering the facts in each case. This apportionment shall
7 be made by the board of commissioners and included each year
8 in the assessment provided for by 85-7-2104.

9 (2) The amount of the assessment for maintenance,
10 operation, and pumping of water to each separate elevation,
11 whenever there are different elevations, shall be determined
12 by the board of commissioners in such manner and upon such
13 notice to the persons interested in the district as the
14 board in its rules may provide. Whenever a contract has been
15 made with the United States, the lands within the district,
16 whether originally included or later annexed to the
17 district, shall pay in accordance with the federal
18 reclamation laws and the public notices, orders, and
19 regulations issued thereunder and in compliance with any
20 contracts made by the United States with the owners of the
21 lands and in compliance with the contract between the
22 districts and the United States. Whenever the works
23 necessary for the completed project are constructed
24 progressively over a period of years and whenever a portion
25 of the lands within the district are or can be irrigated 1

1 year or more before the completion of the entire project,
 2 those lands so irrigated or that can be so irrigated through
 3 the built portion of the project shall pay for the cost of
 4 operating that portion of the project serving them with
 5 irrigation water and also shall pay such portion of the
 6 interest charges as its irrigable area bears to the
 7 irrigable area of the entire project. Whenever lands have
 8 appurtenant thereto a partial water right or partial rights
 9 in a system of irrigation other than that of the district,
 10 the amounts payable shall be equitably apportioned."

11 Section 2. Section 85-7-2104, MCA, is amended to read:

12 "85-7-2104. Annual tax levy — apportionment when
 13 tracts divided. (1) On or before the second Monday in July
 14 each year, the board of commissioners of each irrigation
 15 district organized under parts 1 and 15 shall ascertain the
 16 total amount required to be raised in that year for the
 17 general administrative expenses of the district, including
 18 the cost of maintenance and repairs, and the total amount to
 19 be raised that year for interest on and principal of the
 20 outstanding bonded or other indebtedness of the district,
 21 including any indebtedness incurred under any contract
 22 between the district and the United States, accompanying
 23 which bonds of the district have not been deposited with the
 24 United States as provided in 85-7-1906. The board shall
 25 levy, against each 40-acre tract or fractional lot, as

1 designated by the United States public survey, or platted
 2 lot, if land is subdivided in lots and blocks (or where land
 3 shall be owned in less than 40-acre tracts or in less than
 4 the platted lot, then against each such tract) of land in
 5 the district, that portion of the respective total amounts
 6 so to be raised which the total irrigable area of any such
 7 tract bears to the total irrigable area of the lands in the
 8 district, so that each acre of irrigable land in the
 9 district shall be assessed and required to pay the same
 10 amount as every other acre of irrigable land therein, unless
 11 otherwise specifically provided. The board of commissioners
 12 may make a charge of \$5 to not more than \$25 against each
 13 separately owned tract of land, regardless of its size.
 14 However, a separately owned tract of land of 1 acre or less
 15 and unable to receive water ~~may be charged not more than the~~
 16 ~~\$5 minimum not be charged for district purposes.~~

17 (2) In the event that the ownership of any such
 18 40-acre tract or other subdivision of land in the district
 19 shall be divided after a special tax or assessment against
 20 the same has been levied, each or either of the owners of
 21 such tract or subdivisions shall be entitled to have such
 22 special tax or assessment equitably apportioned to and
 23 against said divisions of such tract or subdivisions, so
 24 that each owner shall be enabled to pay such special tax or
 25 assessment against his portion of such tract or subdivision

1 and have the same discharged from the lien thereof. In no
2 event shall the charge against any separately owned tract of
3 land able to receive water be less than \$5. ~~However--~~ A
4 separately owned tract of land of 1 acre or less and unable
5 to receive water ~~may be charged not more than the \$5 minimum~~
6 not be charged for district purposes.

7 (3) A separately owned tract of land of 1 acre or less
8 is considered unable to receive water when the tract does
9 not adjoin a ditch capable of conveying water to the tract.
10 Such a tract is entitled to relief from district charges
11 after a filing of an affidavit by the owner of the tract
12 attesting to the inability of the tract to receive water as
13 defined in this subsection."

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