

HOUSE BILL NO. 372

INTRODUCED BY GRADY, JENKINS,
SPAETH, HOLLIDAY, PATTERSON,
DONALDSON, KOEHNKE, MARKS

BY REQUEST OF THE DEPARTMENT
OF NATURAL RESOURCES AND CONSERVATION

IN THE HOUSE

January 23, 1985	Introduced and referred to Committee on State Administration.
January 25, 1985	Fiscal Note requested.
January 30, 1985	Fiscal Note returned.
February 5, 1985	Committee recommend bill do pass as amended. Report adopted.
February 6, 1985	Bill printed and placed on members' desks.
February 8, 1985	Second reading, do pass. Considered correctly engrossed.
February 9, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 11, 1985	Introduced and referred to Committee on Natural Resources.
March 7, 1985	Committee recommend bill be concurrent in. Report adopted.
March 8, 1985	Second reading, concurred in.

March 11, 1985

Third reading, concurred in.
Ayes, 50; Noes, 0.

Returned to House.

IN THE HOUSE

March 12, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND CLARIFYING THE LAW PERTAINING TO CONSERVATION DISTRICTS; AMENDING SECTIONS 76-15-201, 76-15-301 THROUGH 76-15-303, 76-15-502, 76-15-710, AND 76-15-721, MCA; REPEALING SECTION 76-15-504, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 76-15-201, MCA, is amended to read:

"76-15-201. Petition to create conservation district.

(1) Any ~~to~~ 10% of the qualified electors within the limits of the territory proposed to be organized into a district may file a petition with the department asking that the board approve the organization of a conservation district to function in the territory described in the petition.

(2) The petition shall set forth:

- (a) the proposed name of the district;
(b) that there is need in the interest of the public health, safety, and welfare for a conservation district to function in the territory described in the petition;
(c) a description of the territory proposed to be

organized as a district, which description may not be required to be given by metes and bounds or by legal subdivisions but shall be considered sufficient if generally accurate;

(d) a request that the board duly define the boundaries for the district; that a referendum be held within the territory so defined on the question of the creation of a conservation district in the territory; and that the board determine that a district be created.

(3) Where more than one petition is filed covering parts of the same territory, the board may consolidate all or any part of the petitions."

Section 2. Section 76-15-301, MCA, is amended to read:

"76-15-301. Establishment and reorganization of supervisor areas. (1) (a) The conservation district is authorized to divide the unincorporated area of the district into no more than five supervisor areas.

(b) Each supervisor area must be represented by one supervisor. If provided by ordinance of the conservation district, a supervisor shall reside in the supervisor area represented. If less than five supervisor areas are established, sufficient supervisors must be elected at large to complete the governing body of the district as provided in 76-15-311(1).

(2) In a district containing no incorporated



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1 municipalities, the board may reorganize the district into
2 seven supervisor areas."

3 Section 3. Section 76-15-302, MCA, is amended to read:

4 "76-15-302. Nominations for supervisor. (1) Within 30
5 days after the date of issuance of a certificate of
6 organization of a conservation district by the secretary of
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8 as defined in Title 13, to nominate candidates for
9 supervisors of the district. A nominating petition may not
10 be accepted by the registrar unless it is subscribed by 10
11 or more qualified electors within the boundaries of the
12 district or the supervisor areas area thereof wherein the
13 nominee resides. Qualified electors may sign more than one
14 nominating petition to nominate more than one candidate for
15 supervisor.

16 (2) If more ~~than six~~ candidates are nominated than the
17 number to be elected at the general election, the registrar
18 shall give due notice of a nominating election to be held
19 for the selection of ~~six~~ candidates for supervisor to appear
20 on the next general election ballot. This nominating
21 election may be held in conjunction with the state primary
22 election."

23 Section 4. Section 76-15-303, MCA, is amended to read:

24 "76-15-303. General election. (1) All qualified
25 electors within the district are eligible to vote in the

1 election.

2 (2) The three candidate or, if more than one
3 supervisor position is to be filled by the general election,
4 the candidates who receive the largest number, respectively,
5 of the votes cast in the election are the elected
6 supervisors for the district.

7 (3) In the general election, the names of ~~all~~ the
8 individuals nominated ~~by petition~~ ~~{if six or fewer}~~ ~~--or--~~ ~~by~~
9 election shall be printed, arranged in a rotating order of
10 the surnames, as provided under 13-12-205, upon ballots,
11 with a square before each name and a direction to insert an
12 "X" mark in the square before any three names to indicate
13 the elector's preference.

14 (4) The election administrator in each county shall
15 prepare suitable nonpartisan ballots or place the names of
16 candidates on the regular general election ballot in the
17 same manner as other nonpartisan candidates for the election
18 of supervisors, which ballots shall be delivered to the
19 election judges in those precincts which contain registered
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25 results of such election in the manner provided in Title

1 13."

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3 "76-15-502. Allocation of state funds among districts.

4 (1) Unless otherwise provided by law, all money which may
5 from time to time be appropriated out of the state treasury
6 to pay the administrative and other expenses of conservation
7 districts shall be allocated by the department among the
8 districts already organized or to be organized during the
9 ensuing biennial fiscal period.

10 (2) In making allocations of the money, the department
11 shall retain an amount estimated by it to be adequate to
12 enable it to make subsequent allocations in accordance with
13 this section, and 76-15-503, ~~and 76-15-504~~ from time to time
14 among districts which may be organized after the initial
15 allocations are made but within the ensuing biennial fiscal
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17 Section 6. Section 76-15-710, MCA, is amended to read:

18 "76-15-710. Court procedure after petition is filed.

19 (1) Upon the presentation of such petition, the court shall
20 cause process to be issued against the defendant and shall
21 hear the case. If it shall appear to the court that
22 testimony is necessary for the proper disposition of the
23 matter, it may take evidence or appoint a referee to take
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1 which shall constitute a part of the proceedings upon which
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3 (2) In all cases where the person in possession of
4 lands who shall fail to perform such work, operations, or
5 avoidances shall not be the owner, the owner of such lands
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7 (3) The court may dismiss the petition, or it may
8 require the defendant to perform the work, operations, or
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13 supervisors may enter upon the lands involved and perform
14 the work or operations or otherwise bring the condition of
15 such land into conformity with the requirements of the
16 regulations and recover the costs and expenses thereof, with
17 interest at the rate of 5% 10% a year, from the defendant.

18 (4) The court shall retain jurisdiction of the case
19 until after the work has been completed. Upon completion of
20 such work pursuant to such order of the court, the
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5 Section 7. Section 76-15-721, MCA, is amended to read:

6 "76-15-721. Board of adjustment. (1) Where the
 7 supervisors of a district adopt an ordinance prescribing
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 10 establishment of a board of adjustment.

11 (2) The board of adjustment shall consist of three
 12 members, each to be appointed for a term of 3 years, except
 13 that the members first appointed shall be appointed for
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14 NEW SECTION. Section 8. Repealer. Section 76-15-504,
 15 MCA, is repealed.

16 NEW SECTION. Section 9. Effective date. This act is
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-End-

FISCAL NOTE

In compliance with a written request received January 25 19 85, there is hereby submitted a Fiscal Note for H.B. 372 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 372 provides for minor revisions to and clarifications of the law pertaining to conservation districts.

ASSUMPTIONS:

1. Proposed legislation includes only minor revisions to and clarification of the existing law.
2. Revisions and clarifications are expected to have no fiscal impact to the State of Montana.

FISCAL IMPACT:

None

LOCAL IMPACT:

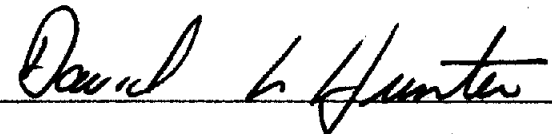
None

LONG-RANGE IMPACTS:

The cost of hearings to DNRC may be reduced due to fewer number of required hearings.

TECHNICAL NOTES:

None



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: JAN 30, 1985
HB 372

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

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22 (4) The court shall retain jurisdiction of the case
 23 until after the work has been completed. Upon completion of
 24 such work pursuant to such order of the court, the
 25 supervisors may file a petition with the court, a copy of

1 which shall be served upon the defendant in the case,
 2 stating the costs and expenses sustained by them in the
 3 performance of the work and praying judgment therefor with
 4 interest. The court shall have jurisdiction to enter
 5 judgment for the amount of such costs and expenses, with
 6 interest at the rate of 5% ~~10%~~ a year until paid, together
 7 with the costs of suit, including a reasonable attorney's
 8 fee to be fixed by the court."

9 Section 7. Section 76-15-721, MCA, is amended to read:

10 "76-15-721. Board of adjustment. (1) Where the
 11 supervisors of a district adopt an ordinance prescribing
 12 land use regulations in accordance with 76-15-701 through
 13 76-15-707, they shall further provide by ordinance for the
 14 establishment of a board of adjustment.

15 (2) The board of adjustment shall consist of three
 16 members, each to be appointed for a term of 3 years, except
 17 that the members first appointed shall be appointed for
 18 terms of 1, 2, and 3 years, respectively.

19 (3) The members of each board of adjustment shall be
 20 appointed by the department with the advice and approval of
 21 the supervisors of the district for which the board has been
 22 established and may be removed by the department, upon
 23 notice and hearing, for neglect of duty or malfeasance in
 24 office but for no other reason, the hearing to be conducted
 25 jointly by the department and the supervisors of the

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 2 conservation, employees of the department, and the
 3 supervisors of the district are ineligible to appointment as
 4 members of the board of adjustment.

5 (4) Vacancies in the board of adjustment shall be
 6 filled in the same manner as original appointments and shall
 7 be for the unexpired term of the member whose term becomes
 8 vacant.

9 (5) The members of the board of adjustment shall
 10 receive compensation for their services at the rate of \$4
 11 \$25 per day for time spent on the work of the board in
 12 addition to expenses, including travel expenses, as provided
 13 for in 2-18-501 through 2-18-503, necessarily incurred in
 14 the discharge of their duties. The supervisors shall pay the
 15 necessary administrative and other expenses of operation
 16 incurred by the board upon the certificate of the chairman
 17 of the board."

18 NEW SECTION. Section 8. Repealer. Section 76-15-504,
 19 MCA, is repealed.

20 NEW SECTION. Section 9. Effective date. This act is
 21 effective on passage and approval.

-End-

1 HOUSE BILL NO. 372

2 INTRODUCED BY GRADY, JENKINS,

3 SPAETH, HOLLIDAY, PATTERSON,

4 DONALDSON, KOEHNKE, MARKS

5 BY REQUEST OF THE DEPARTMENT

6 OF NATURAL RESOURCES AND CONSERVATION

7
8 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND
9 CLARIFYING THE LAW PERTAINING TO CONSERVATION DISTRICTS;
10 AMENDING SECTIONS 76-15-201, 76-15-301 THROUGH 76-15-303,
11 76-15-502, 76-15-710, AND 76-15-721, MCA; REPEALING SECTION
12 76-15-504, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
13

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

15 Section 1. Section 76-15-201, MCA, is amended to read:

16 "76-15-201. Petition to create conservation district.

17 (1) Any ~~10~~ 10% of the qualified electors within the limits
18 of the territory proposed to be organized into a district
19 may file a petition with the department asking that the
20 board approve the organization of a conservation district to
21 function in the territory described in the petition.

22 (2) The petition shall set forth:

23 (a) the proposed name of the district;

24 (b) that there is need in the interest of the public
25 health, safety, and welfare for a conservation district to

1 function in the territory described in the petition;

2 (c) a description of the territory proposed to be
3 organized as a district, which description may not be
4 required to be given by metes and bounds or by legal
5 subdivisions but shall be considered sufficient if generally
6 accurate;

7 (d) a request that the board duly define the
8 boundaries for the district; that a referendum be held
9 within the territory so defined on the question of the
10 creation of a conservation district in the territory; and
11 that the board determine that a district be created.

12 (3) Where more than one petition is filed covering
13 parts of the same territory, the board may consolidate all
14 or any part of the petitions."

15 Section 2. Section 76-15-301, MCA, is amended to read:

16 "76-15-301. Establishment and reorganization of
17 supervisor areas. (1) (a) The conservation district is
18 authorized to divide the unincorporated area of the district
19 into no more than five supervisor areas.

20 (b) Each supervisor area must be represented by one
21 supervisor. If provided by ordinance of the conservation
22 district, a supervisor shall reside in the supervisor area
23 represented. A CERTIFIED COPY OF THE ORDINANCE MUST BE
24 SUBMITTED TO THE ELECTION ADMINISTRATOR IN EACH AFFECTED
25 COUNTY. If less than five supervisor areas are established,

1 sufficient supervisors must be elected at large to complete
2 the governing body of the district as provided in
3 76-15-311(1).

4 (2) In a district containing no incorporated
5 municipalities, the board may reorganize the district into
6 seven supervisor areas."

7 Section 3. Section 76-15-302, MCA, is amended to read:

8 "76-15-302. Nominations for supervisor. (1) Within 30
9 days after the date of issuance of a certificate of
10 organization of a conservation district by the secretary of
11 state, nominating petitions may be filed with the registrar,
12 as defined in Title 13, to nominate candidates for
13 supervisors of the district. A nominating petition may not
14 be accepted by the registrar unless it is subscribed by 10
15 or more qualified electors within the boundaries of the
16 district or the supervisor-areas area thereof wherein the
17 nominee resides. Qualified electors may sign more than one
18 nominating petition to nominate more than one candidate for
19 supervisor.

20 (2) If more ~~than--six~~ THAN TWICE THE NUMBER OF
21 candidates are nominated than the number to be elected at
22 the general election, the registrar shall give due notice of
23 a nominating election to be held for the selection of ~~six~~
24 candidates for supervisor to appear on the next general
25 election ballot. This nominating election may be held in

1 conjunction with the state primary election."

2 Section 4. Section 76-15-303, MCA, is amended to read:

3 "76-15-303. General election. (1) All qualified
4 electors within the district are eligible to vote in the
5 election.

6 (2) The three candidate or, if more than one
7 supervisor position is to be filled by the general election,
8 the candidates who receive the largest number, respectively,
9 of the votes cast in the election are the elected
10 supervisors for the district.

11 (3) In the general election, the names of ~~all the~~
12 individuals nominated by-petition-(if-six-or--fewer)--or--by
13 election shall be printed, arranged in a rotating order of
14 the surnames, as provided under 13-12-205, upon ballots,
15 with a square before each name and a direction to insert an
16 "X" mark in the square before any three names to indicate
17 the elector's preference.

18 (4) The election administrator in each county shall
19 prepare suitable nonpartisan ballots or place the names of
20 candidates on the regular general election ballot in the
21 same manner as other nonpartisan candidates for the election
22 of supervisors, which ballots shall be delivered to the
23 election judges in those precincts which contain registered
24 electors prior to each general election and each primary
25 election, ~~in--which-more-than-four-candidates-are-nominated~~

1 if necessary. The election judges and other election
2 officials in such precincts shall submit such ballots to
3 qualified electors, conduct the election, and tabulate the
4 results of such election in the manner provided in Title
5 13."

6 Section 5. Section 76-15-502, MCA, is amended to read:

7 "76-15-502. Allocation of state funds among districts.

8 (1) Unless otherwise provided by law, all money which may
9 from time to time be appropriated out of the state treasury
10 to pay the administrative and other expenses of conservation
11 districts shall be allocated by the department among the
12 districts already organized or to be organized during the
13 ensuing biennial fiscal period.

14 (2) In making allocations of the money, the department
15 shall retain an amount estimated by it to be adequate to
16 enable it to make subsequent allocations in accordance with
17 this section, and ~~76-15-503, and 76-15-504~~ from time to time
18 among districts which may be organized after the initial
19 allocations are made but within the ensuing biennial fiscal
20 period."

21 Section 6. Section 76-15-710, MCA, is amended to read:

22 "76-15-710. Court procedure after petition is filed.

23 (1) Upon the presentation of such petition, the court shall
24 cause process to be issued against the defendant and shall
25 hear the case. If it shall appear to the court that

1 testimony is necessary for the proper disposition of the
2 matter, it may take evidence or appoint a referee to take
3 such evidence as it may direct and report the same to the
4 court with his findings of fact and conclusions of law,
5 which shall constitute a part of the proceedings upon which
6 the determination of the court shall be made.

7 (2) In all cases where the person in possession of
8 lands who shall fail to perform such work, operations, or
9 avoidances shall not be the owner, the owner of such lands
10 shall be joined as party defendant.

11 (3) The court may dismiss the petition, or it may
12 require the defendant to perform the work, operations, or
13 avoidances and may provide that, upon the failure of the
14 defendant to initiate such performance within the time
15 specified in the order of the court and to prosecute the
16 same to completion with reasonable diligence, the
17 supervisors may enter upon the lands involved and perform
18 the work or operations or otherwise bring the condition of
19 such land into conformity with the requirements of the
20 regulations and recover the costs and expenses thereof, with
21 interest at the rate of 5% 10% a year, from the defendant.

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23 until after the work has been completed. Upon completion of
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