

HOUSE BILL NO. 650
INTRODUCED BY SWYSGOOD

IN THE HOUSE

FEBRUARY 11, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION.
FEBRUARY 13, 1989	FIRST READING.
FEBRUARY 16, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 17, 1989	PRINTING REPORT.
FEBRUARY 18, 1989	SECOND READING, DO PASS.
FEBRUARY 20, 1989	ENGROSSING REPORT.
FEBRUARY 21, 1989	THIRD READING, PASSED. AYES, 96; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION.
	FIRST READING.
MARCH 18, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 20, 1989	SECOND READING, CONCURRED IN.
MARCH 22, 1989	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 22, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 650
2 INTRODUCED BY Sungood
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE BOARD
5 OF COMMISSIONERS OF AN IRRIGATION DISTRICT TO CREATE A
6 SUBDISTRICT WITHIN THE DISTRICT; PROVIDING FOR THE
7 CONSTRUCTION OF IRRIGATION IMPROVEMENTS WITHIN A SUBDISTRICT
8 AND FOR THE ISSUANCE OF BONDS TO FINANCE THE IMPROVEMENTS;
9 ALLOWING THE PRIVATE SALE OF BONDS OF IRRIGATION DISTRICTS
10 TO CERTAIN GOVERNMENTAL ENTITIES; CLARIFYING THAT BONDS OF
11 IRRIGATION DISTRICTS ISSUED TO THE STATE OF MONTANA AND ITS
12 AGENCIES AND DEPARTMENTS DO NOT CONSTITUTE INDEBTEDNESS;
13 ALLOWING SPECIAL ASSESSMENTS OR LEVIES ON PROPERTY OWNERS
14 WITHIN A SUBDISTRICT; AND REVISING OTHER PROVISIONS RELATING
15 TO IRRIGATION DISTRICTS TO ALLOW FOR SUBDISTRICTS; AMENDING
16 SECTIONS 85-7-1904, 85-7-1907, 85-7-1908, 85-7-1910,
17 85-7-1911, 85-7-1921, 85-7-2001, 85-7-2012 THROUGH
18 85-7-2014, 85-7-2019, 85-7-2021, 85-7-2023, 85-7-2101
19 THROUGH 85-7-2104, 85-7-2107 THROUGH 85-7-2110, 85-7-2112,
20 AND 85-7-2114 THROUGH 85-7-2116, MCA; AND PROVIDING AN
21 IMMEDIATE EFFECTIVE DATE."
22
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
24 NEW SECTION. Section 1. Authority to create
25 subdistricts -- petition -- requirements. (1) The board of

1 commissioners of an irrigation district created and
2 organized under Title 85, chapter 7, parts 1 and 15, may
3 establish one or more subdistricts within the irrigation
4 district to provide for and finance the cost of irrigation
5 works, including gravity irrigation systems, gravity measure
6 systems, or sprinkling systems, that would irrigate lands in
7 the subdistrict but not other lands in the district. A
8 subdistrict may be established only upon a petition signed
9 by at least 60%, in number and acreage, of the holders of
10 title or evidence of title to lands to be included within
11 the subdistrict. The petition must be addressed to and filed
12 with the board of commissioners and be accompanied by a map
13 or plat of the proposed subdistrict.

14 (2) The petition must state:
15 (a) the name suggested for the proposed subdistrict;
16 (b) a general description of the land to be included in
17 the proposed subdistrict;
18 (c) the name of each holder of title or evidence of
19 title to the lands in the proposed subdistrict, as
20 determined according to 85-7-101 and 85-7-102 and, if a
21 holder is a nonresident of the county or counties in which
22 the proposed district lies, the post-office address of the
23 nonresident owner, if known;
24 (d) the general water source from which the land in the
25 proposed subdistrict will be irrigated and the general

1 character of the works, water rights, canals, and other
2 property proposed to be acquired or constructed for
3 irrigation purposes in or for the benefit of the proposed
4 subdistrict; and

5 (e) a request that the land within the proposed
6 subdistrict be made a subdistrict according to the
7 provisions of [sections 1 through 4].

8 **NEW SECTION. Section 2.** Notice of hearing on petition
9 to create subdistrict. (1) Upon the filing of a petition to
10 create a subdistrict, the board of commissioners of the
11 irrigation district shall by order fix the time and place
12 for a hearing on the petition and shall direct that notice
13 of the hearing be given.

14 (2) The notice of the hearing must state:

15 (a) the name of the proposed subdistrict and its
16 purpose;

17 (b) the time and place of the hearing;

18 (c) a general description of the land proposed to be
19 included in the subdistrict;

20 (d) a general description of the water source; and

21 (e) the general character of the works, water rights,
22 canals, and other property proposed to be acquired or
23 constructed in or for the benefit of the subdistrict.

24 (3) The board shall publish notice of the hearing at
25 least once a week for 2 successive weeks in a newspaper

1 published in each county in which the proposed subdistrict
2 is located. The first publication must occur not less than
3 15 days before the date of the hearing.

4 (4) Notice of the hearing must also be mailed not less
5 than 15 days before the date of the hearing to each holder
6 of title or evidence of title to land within the proposed
7 subdistrict. However, a defect in the notice or failure to
8 give mailed notice does not affect the validity of the
9 proceeding for the creation of a subdistrict under [sections
10 1 through 4].

11 **NEW SECTION. Section 3.** Hearing on petition to create
12 subdistrict. (1) The board of commissioners shall hear the
13 petition at the time specified in the notice provided under
14 [section 2]. The board may adjourn the hearing for lack of
15 sufficient notice or other good cause. The hearing must be
16 completed within 3 weeks of the initial hearing.

17 (2) Upon application of the petitioners or any
18 interested person or persons, the board shall allow the
19 petition to be amended and may order that additional notice
20 be given.

21 (3) At the hearing, any person whose land or property
22 rights may be damaged or benefited by the creation of the
23 subdistrict or by the irrigation works or improvements to be
24 acquired or constructed in or for the benefit of the
25 subdistrict may appear and submit oral or written testimony.

1 NEW SECTION. **Section 4.** Review of petition -- creation
 2 of irrigation subdistrict. (1) After the hearing on the
 3 creation of the proposed subdistrict, the board of
 4 commissioners shall by resolution create the subdistrict if
 5 it finds that:

6 (a) the petition substantially complies with the
 7 provisions of [section 1]; and

8 (b) it is in the best interests of the holders of title
 9 or evidence of title in the subdistrict and the district to
 10 establish the subdistrict.

11 (2) The board shall describe in the resolution the land
 12 to be included in the subdistrict. The land does not need to
 13 be contiguous but must be located within the district.

14 (3) In creating the subdistrict proposed by the
 15 petition, the board may alter the geographic area of the
 16 subdistrict or the scope or type of irrigation improvements
 17 to be undertaken in or for the benefit of the subdistrict,
 18 subject to the following conditions:

19 (a) The board may not include within the subdistrict
 20 land not identified by the petition as part of the proposed
 21 subdistrict unless notice and hearing on the addition are
 22 provided according to [sections 2 and 3].

23 (b) The board may not exclude land from the proposed
 24 subdistrict if:

25 (i) the land can be irrigated from the same general

1 source and by the same general system of works proposed for
 2 other land in the subdistrict; and

3 (ii) the owner or owners of the land file a written
 4 statement with the board requesting that the land be
 5 included in the subdistrict.

6 (c) The board shall exclude land from the proposed
 7 subdistrict if it determines that:

8 (i) the land will not benefit from irrigation obtained
 9 from the works of the proposed subdistrict; or

10 (ii) the land has appurtenant water rights or can be
 11 irrigated from sources more feasible than the proposed
 12 subdistrict and the owner or owners of the land have not
 13 filed a written statement with the board consenting to
 14 inclusion of the land in the subdistrict.

15 (4) For purposes of including or excluding land from a
 16 proposed subdistrict, the board of commissioners may
 17 subdivide any tract into 40-acre or smaller parcels.

18 (5) The creation of a subdistrict by the board of
 19 commissioners is conclusive on all owners of land within the
 20 subdistrict unless, within 30 days after adoption by the
 21 board of the resolution establishing the subdistrict, a
 22 holder of title or evidence of title to land within the
 23 subdistrict petitions the district court of the county in
 24 which the greater portion of the proposed subdistrict is
 25 located, for review of the creation of the subdistrict. Upon

the timely filing of a petition for review of the creation of the subdistrict, the district court shall conduct a hearing and shall issue a decision in substantially the same manner required for review of a petition for an irrigation district under 85-7-105 through 85-7-108. The district court shall base its decision on whether the requirements of [sections 1 through 3] and subsections 1 through 4 of this section have been met.

(6) A proceeding initiated in the district court for review of the validity of the bond issue or issues to finance the irrigation improvements to be undertaken in the subdistrict may be consolidated with a proceeding initiated under this section. Any indebtedness or liability incurred by the board of commissioners of the district with respect to or on behalf of a subdistrict, including bonds issued by the district, may not constitute a charge or lien on any land in the district except the land within the subdistrict.

NEW SECTION. Section 5. Alteration and determination of subdistrict acreage. (1) Land may be deleted from or added to the subdistrict in the same manner provided for irrigation districts in 85-7-1801 through 85-7-1810.

(2) Land in a subdistrict that is deleted from an irrigation district remains in the subdistrict unless it is specifically deleted from the subdistrict according to subsection (1).

(3) The taxable area of the land in the subdistrict may be determined in the manner provided in 85-7-1841 through 85-7-1845.

NEW SECTION. Section 6. Dissolution of subdistrict. A subdistrict created under [section 4] may be dissolved by order of the district court of the county in which the greatest portion of lands of the subdistrict are located, in the manner provided for dissolution of irrigation districts in Title 85, chapter 7, part 10.

NEW SECTION. Section 7. Private sale of bonds to certain governmental entities. The district may sell bonds issued under Title 85, chapter 7, part 20, to the United States, the state of Montana, or any agency, department, or instrumentality of these governments by negotiation and without public advertisement or solicitation of bids.

Section 8. Section 85-7-1904, MCA, is amended to read:

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

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

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

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

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

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

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

(3) ~~No~~ A purchase, lease, or contract for purchase of any water, water rights, canals, reservoirs, reservoir sites, dam sites, irrigation works, or other property of any nature or kind or for the making or purchasing of surveys, maps, plans, estimates, and specifications or for the purchase of machinery for pumping plants or for the erection of buildings, aqueducts, and other structures necessarily used in connection with such pumping plants, for a price or rental in excess of \$150,000 or 25% of the district's annual operation and maintenance budget, whichever is greater, ~~is final or binding upon the district, and no sum may be paid for such purchase, lease, or contract~~ may not be entered into by the district without the written consent or petition of at least a majority in number and acreage of the holders

of title or evidence of title to the lands within the district or, if the purchase, lease, or contract substantially benefits a subdistrict in the district, by a majority in number and acreage of the holders of title or evidence of title to lands within the subdistrict. Any splitting or division of ~~such~~ a purchase, lease, or contract with the purpose or intention of avoiding or circumventing the provisions of this section ~~shall render such~~ renders the divided or split contract or contracts void."

Section 9. Section 85-7-1907, MCA, is amended to read:

"85-7-1907. Board power to provide sufficient water. Said The board may also construct and maintain the necessary dams, reservoirs, and works for the collection and distribution of water for the district or any subdistrict in the district, from one or more sources and from different and additional sources; operate such works; secure, in any of the manners provided in this chapter, additional water supplies from the same or different sources; and do any and every lawful act necessary to be done in order that sufficient water may be furnished for irrigation purposes to all the lands in the district or subdistrict included at the time of its organization or at any time thereafter."

Section 10. Section 85-7-1908, MCA, is amended to read:

"85-7-1908. Board powers over district property. (1) ~~The board is hereby authorized and empowered to~~ may take

conveyances or other assurances for all property acquired by it under the provisions of this chapter, in the name of the district, to and for the uses and purposes ~~herein--expressed~~ in this chapter.

(2) The legal title to all property acquired by or for any irrigation district or any subdistrict in the district under the provisions of this chapter shall immediately and by operation of law vest in such that district, as set forth in this chapter. The board of commissioners ~~is--hereby authorized---and--empowered--to~~ may hold, use, maintain, acquire, manage, occupy, and possess ~~said that~~ property, as ~~herein provided~~ in this chapter. Any property ~~so~~ acquired by the district may be conveyed to the United States ~~insofar-as~~ the--same-may-be-needed for the construction, operation, and maintenance of works by the United States for the benefit of the district or a subdistrict in the district under any contract that may be entered into with the United States pursuant to this chapter."

Section 11. Section 85-7-1910, MCA, is amended to read:

"85-7-1910. Board power to dispose of district property. (1) The board of commissioners ~~shall have the power may,~~ with the written consent of a majority in number and acreage of the owners of the lands in the district or, if the leased property substantially benefits a subdistrict in the district, of a majority in number and acreage of the

owners of lands within the subdistrict, to lease in whole or in part the system of canals and works or water belonging to the district, whenever ~~such the~~ leasing may--be--deemed is considered for the benefit of the district or subdistrict, if the leased property substantially benefits the subdistrict. When ~~said the~~ board contemplates the leasing of the canals or works or water of such a district or subdistrict, it shall ~~so~~ declare the availability of the lease by resolution or order and give notice thereof by ~~publishing--the-same~~ publication in some newspaper published in the county in which the office of such that irrigation district is situated at least 2 calendar weeks prior to the making of any lease. ~~No-such A~~ lease shall may not be made unless a majority in number and acreage of the holders of title or evidence of title to the lands in the district ~~shall or,~~ if the lease substantially benefits a subdistrict, a majority in number and acreage of the holders of title or evidence of title to lands within the subdistrict, file with the board a written consent to make the lease. Such The lease shall-in-no-way may not interfere with any rights that ~~may~~ have been established by law at the time such the lease is made, nor ~~shall-such may the~~ lease operate so-as to deprive any owner or owners of land in such the district of the use of water from such works upon such the lands. The board of commissioners shall require a good and sufficient

1 bond to secure the faithful performance of the lease by the
2 lessee.

3 (2) In addition to all other powers heretofore granted
4 any irrigation district existing under the laws of Montana,
5 for the purpose of securing financial aid in any form from
6 the department of natural resources and conservation, an
7 irrigation district may convey, assign, transfer, and set
8 over to the department all or any part of its property,
9 including all water rights, rights-of-way, and easements for
10 reservoirs, reservoir sites, canals, ditches, laterals, and
11 headgates, as may be required by the department as a
12 condition to furnishing such financial aid or assistance.

13 (3) If any an irrigation district has ceased operation,
14 such the district prior to its dissolution ~~shall--be~~
15 ~~authorized-and-empowered-to may~~ convey, assign, transfer,
16 and set over to any person or association of persons all or
17 any part of its property enumerated described in subsection
18 (2), for the purpose of irrigating and reclaiming any or all
19 other land which can be served and irrigated therefrom."

20 **Section 12.** Section 85-7-1911, MCA, is amended to read:

21 "85-7-1911. Apportionment of water by board. (1) The
22 board of commissioners shall apportion the water for
23 irrigation among the lands in the district or a subdistrict
24 in the district in a just and equitable manner, and the
25 maximum amount apportioned to any land shall be the amount

1 that can be beneficially used on ~~said the~~ land, ~~and--such~~
2 The amount of water ~~shall-become-and-shall-be~~ is appurtenant
3 to the land and inseparable from ~~the-same it~~ but subject to
4 reduction as hereinafter provided in this chapter.

5 (2) In the event of a shortage of water, the amount of
6 water delivered to each particular tract or piece of land
7 shall be reduced proportionately.

8 (3) All surplus water belonging to the district may be
9 sold or disposed of by the board for the benefit of the
10 district or for the benefit of a subdistrict if the surplus
11 water is derived from water that attaches to the substantial
12 benefit of the subdistrict.

13 (4) All water, the right to the use of which is
14 acquired by the district under any contract with the United
15 States, shall be distributed and apportioned by the district
16 in accordance with the acts of congress, the rules and
17 regulations of the secretary of the interior, and the
18 provisions of ~~said the~~ contract ~~in-relation-thereto~~."

19 **Section 13.** Section 85-7-1921, MCA, is amended to read:

20 "85-7-1921. Distribution system defined. The words
21 "distribution system", as used in 85-7-1922 through
22 85-7-1925, ~~shall--denote~~ denotes the entire works and
23 property of all irrigation districts, including main ditches
24 and canals, laterals, bilaterals, headgates, flumes,
25 spillways, boxes, and all other appliances and means by

1 which the waters of any irrigation district, including a
 2 subdistrict in the district, are or shall be apportioned or
 3 distributed for use."

4 **Section 14.** Section 85-7-2001, MCA, is amended to read:

5 "85-7-2001. Limitations on debt-incurring power. (1)

6 The board of commissioners or other officers of the district
 7 may not incur any debt or liability, either by issuing bonds
 8 or otherwise, except as provided in this chapter.

9 (2) No An irrigation district may not become indebted,
 10 in any manner or for any purpose in any one year, in an
 11 amount exceeding 18.75% of the assessed valuation of the
 12 district, except as provided in subsection {2} (4).

13 (3) An irrigation district may not incur indebtedness,
 14 in any manner or for any purpose in any one year, on behalf
 15 of any subdistrict in the district in an amount exceeding
 16 18.75% of the assessed valuation of the subdistrict, except
 17 as provided in subsection (4).

18 {2}{4} (a) For the purpose of organization; for any of
 19 the immediate purposes of this chapter; to make or purchase
 20 surveys, plans, and specifications; for stream gauging and
 21 gathering data; or to make any repairs occasioned by any
 22 calamity or other unforeseen contingency, the board of
 23 commissioners may, in any one year, incur the indebtedness
 24 of as many dollars as there are acres in the district and
 25 may cause issue warrants of the district ~~to-issue-therefor~~.

1 (b) For the purpose of organization, for any of the
 2 immediate purposes of this chapter, or to meet the expenses
 3 occasioned by any calamity or other unforeseen contingency,
 4 the board of commissioners may, in any one year, incur (in
 5 addition to the 18.75% limitation of subsection (1)) an
 6 additional indebtedness not exceeding 12.5% of the assessed
 7 valuation of the district and may ~~cause~~ issue warrants of
 8 the district ~~to-issue~~ therefor.

9 (c) The limitation of subsection (1) does not apply to
 10 warrants issued for unpaid interest on the valid bonds of
 11 any irrigation district.

12 (d) The limitation of subsection (1) does not apply to
 13 any bonds or obligations issued to the state of Montana, the
 14 United States, or any department, agency, or instrumentality
 15 of these governments if the bonds or obligations are issued:

16 (i) pursuant to a loan program specifically authorized
 17 by the legislature; or

18 (ii) to finance in whole or in part a project authorized
 19 by the legislature.

20 (e) The limitation of subsection (1) does not apply to
 21 any bonds issued under this chapter pursuant to a provision
 22 which that expressly supersedes the limitation.

23 {3}{5} Any debt or liability incurred in excess of the
 24 limitations provided by the irrigation district laws is
 25 void.

~~{4}--The--limitation-of-subsection-(1)-does-not-apply-to
state-or-federal-bonds-used-for-a-project-authorized-by--the
legislature."~~

Section 15. Section 85-7-2012, MCA, is amended to read:

"85-7-2012. Purposes for which bonds may be issued. The board of commissioners of a district established under the provisions of Title 85, chapter 7, part 1, may authorize and issue negotiable fully registered bonds or negotiable coupon bonds for of the district for the purpose of providing the necessary funds for:

(1) constructing the necessary irrigation canals and works, including drainage works, and constructing works for the generation and distribution of electricity within the district and for acquiring the property and rights necessary therefor;

(2) acquiring, by purchase or otherwise, waters, water rights, canals, reservoirs, reservoir sites, irrigation works, drainage works, and works for the generation and distribution of electricity, whether such the works are constructed or partially constructed;

(3) meeting the expense expenses incurred incident to the construction or acquisition of such the works and property, including administrative, engineering, and legal expenses;

(4) assuming, as principal or guarantor, indebtedness

to the United States on account of district lands;

(5) providing a sufficient amount of money to pay the interest on all ~~negotiable-coupon~~ bonds of the district for a period not exceeding 5 years;

(6) redeeming or paying all or any portion of the existing indebtedness of the district, evidenced by outstanding bonds; delinquent interest coupons, overdue claims for interest, and accrued interest; or warrants, together with all delinquent and accrued interest, whether such the indebtedness has or may hereafter become payable at the option of the district, by consent of the bondholders, or by any other lawful means; or

(7) establishing a reserve for the payment of principal and interest on bonds of the district in an amount determined by the board to be reasonably required to market the bonds; or

~~{7}{8}~~ otherwise carrying out the provisions of the irrigation district laws."

Section 16. Section 85-7-2013, MCA, is amended to read:

"85-7-2013. Petition requirements. (1) No-bonds Bonds provided for in 85-7-2012 through 85-7-2015 may not be authorized or issued by or on behalf of any irrigation district organized hereunder under this chapter or by an irrigation district on behalf of a subdistrict located in the district and no a contract may not be made with the

1 United States as provided in 85-7-1906 except upon a
2 petition signed by:

3 (a) at least 60%, in number and acreage, of the holders
4 of title or evidence of title to lands included within the
5 district or, if the bonds are issued on behalf of or if the
6 contract relates to a subdistrict, at least 60% in number
7 and acreage of the holders of title or evidence of title to
8 lands within the subdistrict; or by

9 (b) at least 75%, in number and acreage, of the holders
10 of title or evidence of title to such the lands who are
11 residents of the county or counties in which lands of the
12 district are situated or, if the bonds are issued on behalf
13 of or if the contract relates to a subdistrict, at least 75%
14 in number and acreage of the holders of title or evidence of
15 title to the lands who are residents of the county or
16 counties in which lands of the subdistrict are situated.

17 (2) The petition shall must be addressed to the board
18 of commissioners, set forth the aggregate amount of bonds to
19 be issued and the purpose or purposes thereof of the bonds,
20 have attached thereto to it an affidavit verifying the
21 signatures to the petition, and be filed with the secretary
22 of the board of-commissioners. When bonds are issued for the
23 sole purpose of redeeming or paying the existing and
24 outstanding bonds or warrants, or both, including delinquent
25 and accrued interest, of such the district, such the bonds

1 may be authorized and issued in the manner provided for by
2 85-7-2019."

3 **Section 17.** Section 85-7-2014, MCA, is amended to read:

4 **"85-7-2014. Procedure after petition filed.** Upon the
5 filing of the petition, the board of commissioners shall, by
6 appropriate order or resolution, authorize and direct the
7 issuance of the bonds of the district to the amount and for
8 the purpose or purposes specified in the petition; fix the
9 numbers, denominations, and maturity or maturities of the
10 bonds; specify the rate of interest thereon on the bonds and
11 whether payable annually or semiannually; designate the
12 place and method of payment of the bonds and the interest
13 coupons on the bonds, within or without outside the state of
14 Montana; prescribe the form of the bonds and--interest
15 coupons--to-be-attached-thereto; and provide for the levy of
16 a special tax or assessment as provided in this chapter on
17 all the lands in the district or for a levy on a subdistrict
18 if the bonds are issued on behalf of the subdistrict, for
19 the irrigation and benefit of which the district or
20 subdistrict was organized and the bonds are issued or the
21 contract is to be made, sufficient in amount to pay the
22 interest on and principal of the bonds when due and all
23 amounts to be paid to the United States under any contract
24 between the district and the United States;--accompanying for
25 which bonds of the district have not been deposited with the

1 United States as provided in 85-7-1906."

2 **Section 18.** Section 85-7-2019, MCA, is amended to read:

3 "85-7-2019. Refunding bonds. (1) Any irrigation
4 district may issue refunding bonds.

5 (2) An irrigation district may issue refunding bonds
6 for the purpose of redeeming or paying the indebtedness or
7 any portion thereof of the indebtedness of the district,
8 whether represented by existing and outstanding bonds,
9 interest coupons thereof, or warrants, including accrued and
10 unpaid interest on the bonds, coupons, and warrants, and
11 whether such the indebtedness is due or not due or has or
12 may become payable at the option of the district, by consent
13 of the bondholders or warrant holders, or by any other legal
14 means and whether such the indebtedness is now existing or
15 may be created, and funds in the treasury of the district
16 are not available for the payment of the same indebtedness.
17 The refunding bonds may be issued in one or more series. The
18 petition for the refunding bonds, must be signed as required
19 by law by at least 60% in number and acreage of the holders
20 of title or evidence of title to the lands included within
21 the district, or by at least 60% in number and acreage of
22 the holders of title or evidence of title to the lands
23 within a subdistrict if the bonds to be refunded were issued
24 by the district on behalf of the subdistrict, and addressed
25 to the board of directors or commissioners of the district.

1 The petition may contain the following specifications, in
2 addition to the matters now otherwise required by law:

3 (a) how many series of bonds shall be issued; and

4 (b) the terms, conditions, and liens of the bonds and
5 the terms and conditions upon which each of the series of
6 bonds shall be exchanged for outstanding bonds of the
7 district if the same bonds are to be exchanged and not sold.

8 (3) The specifications provided for in subsection (2),
9 when set forth in the petition, are controlling upon the
10 board of directors or commissioners. The petitioners shall
11 in the specifications set forth the contract of exchange to
12 be made, with particularity. The contract may include any
13 term, requirement, grant, transfer of property or rights,
14 covenant, or condition considered by the petitioners to be
15 in the best interest of the district or of the subdistrict
16 if the bonds that are the subject of the contract were
17 issued by the district on behalf of the subdistrict. The
18 petition shall state that the board of directors or
19 commissioners of the district may authorize and direct the
20 issuance of bonds according to the specifications of the
21 petition, make any such contract, and bind the irrigation
22 district under the contract."

23 **Section 19.** Section 85-7-2021, MCA, is amended to read:

24 "85-7-2021. Liens of bonds. (1) All bonds issued
25 hereunder under this chapter and all amounts to be paid to

the United States under any contract between the district and the United States, accompanying which bonds of the district have not been deposited with the United States as provided in 85-7-1906, shall be a lien upon all the lands originally or at any time included in the district, or upon lands in a subdistrict if the bonds are issued on behalf of the subdistrict, for the irrigation and benefit of which said the irrigation district or subdistrict was organized and said the bonds were issued and for the benefit of which such contract between the district and the United States was made, except upon such any lands as may at any time be included in such the district or subdistrict on account of the exchange or substitution of water under the provisions of 85-7-1912, if any there be; and all such lands shall be are subject to a special tax or assessment for the payment of the interest on and principal of said the bonds. All amounts to be paid to the United States under any such contract between the district and the United States and said the special tax or assessment shall constitute constitute a first and prior lien on the land against which levied to the same extent and with like force and effect as taxes levied for state and county purposes.

(2) All liens herein created under this section remain upon the lands for a period of 8 years after the date of maturity of the obligation. Thereafter, the lands and the

~~titles--thereto--shall be free from any such liens until the obligations of the district for the bonds are discharged, as provided by law or by the resolution of the board of commissioners authorizing their issuance."~~

Section 20. Section 85-7-2023, MCA, is amended to read:

"85-7-2023. Notice of sale of bonds. Before Except as provided in [section 7], before making any sale the board shall, by resolution at a meeting, declare its intention to sell a specified amount of the bonds and the day and hour and place of such sale. The board shall cause such the resolution to be entered in the minutes and notice of the sale to be given by publication thereof at least once a week for 3 successive calendar weeks in some a newspaper in the county where the office of the board of commissioners is located, and the notice may be published in any other newspaper within or without the state at its the board's discretion. The notice shall state that sealed proposals will be received by the board at its office, for the purchase of bonds, until the day and hour named in the resolution. At the time appointed the board shall open the proposals and award the purchase of the bonds or any portion or portions thereof to the highest responsible bidder or bidders. Said The board may reject any or all bids. In case no award is made, the board thereafter may either readvertise said the bonds or any part thereof of the bonds

1 for sale or sell the same bonds or any part thereof of the
 2 bonds at private sale. Coupons evidencing unearned interest
 3 ~~shall~~ must be detached and canceled."

4 **Section 21.** Section 85-7-2101, MCA, is amended to read:

5 "85-7-2101. Tax or assessment to pay bonds and
 6 interest. (1) All bonds and the interest thereon issued
 7 hereunder under this chapter and all payments due or to
 8 become due to the United States under any contract between
 9 the district and the United States, ~~accompanying~~ for which
 10 the bonds of the district have not been deposited with the
 11 United States as provided in 85-7-1906, ~~shall~~ must be paid
 12 by revenue derived from a special tax or assessment levied
 13 upon all the lands included in the district, or upon all
 14 lands in a subdistrict of the district if the bonds are
 15 issued by the district on behalf of the subdistrict, except
 16 upon those lands that have been included in the district or
 17 subdistrict on account of the exchange or substitution of
 18 water under the provisions of 85-7-1912, ~~if there are any~~.
 19 All lands in the district, or in a subdistrict if the bonds
 20 are issued on behalf of the subdistrict, at the time the
 21 bonds are issued and all lands subsequently included which
 22 are ~~so~~ chargeable under the provisions of this chapter ~~shall~~
 23 ~~be and~~ remain liable to be taxed and assessed for the
 24 payment of the bonds and interest and all payments due or to
 25 become due to the United States under any contract between

1 the district and the United States, ~~accompanying~~ for which
 2 bonds of the district have not been deposited with the
 3 United States as provided in 85-7-1906.

4 (2) The board of commissioners of the district, in the
 5 order or resolution authorizing and directing the issuance
 6 of bonds of the district mentioned in 85-7-2014, shall
 7 provide for the annual levy and collection of a special tax
 8 or assessment upon all the lands included in the district,
 9 or in a subdistrict if the bonds are to be issued on behalf
 10 of the subdistrict, and subject to taxation and assessment,
 11 sufficient in amount to meet the interest on the bonds
 12 promptly when and as the same interest accrues and to
 13 discharge the principal thereof of the bonds at their
 14 maturity or respective maturities and to meet all payments
 15 due or to become due to the United States under any contract
 16 between the district and the United States, ~~accompanying~~ for
 17 which bonds of the district have not been deposited with the
 18 United States as provided in 85-7-1906, at the times ~~such~~
 19 the payments by ~~such the~~ contract become due and payable."

20 **Section 22.** Section 85-7-2102, MCA, is amended to read:

21 "85-7-2102. Added lands to pay proportional share of
 22 bonded indebtedness. (1) Where a district or subdistrict is
 23 extended after the construction of works of irrigation,
 24 including drainage works, to include other irrigable lands,
 25 such the included lands ~~shall be~~ are chargeable with such

1 the proportion of the bonded indebtedness incurred or
 2 authorized to be incurred by any district or subdistrict and
 3 such the proportion of the indebtedness incurred under any
 4 contract between the district and the United States,
 5 accompanying for which bonds of the district have not been
 6 deposited with the United States as provided in 85-7-1906,
 7 as the district court shall order, as provided in 85-7-1808
 8 through 85-7-1811 and 85-7-1841 through 85-7-1845. The board
 9 of commissioners of the district shall provide for the levy
 10 of a special tax or assessment against such the included
 11 lands on account of said the bonds and the interest thereon
 12 on the bonds and on account of any payments under any
 13 contracts between the district and the United States,
 14 accompanying for which bonds of the district have not been
 15 deposited with the United States, as provided in 85-7-1906.

16 (2) Said The special tax or assessment shall be levied
 17 and collected as and in the manner as the special tax
 18 assessment against the lands of the original district or
 19 subdistrict on account of the payments under any contract
 20 between the district and the United States, accompanying for
 21 which bonds of the district have not been deposited with the
 22 United States as provided in 85-7-1906, and on account of
 23 which said the bonds and the interest thereon on the bonds
 24 is provided for, levied, and collected. Upon the extending
 25 of any such district or subdistrict, the total of said the

1 bond indebtedness or indebtedness due to the United States
 2 shall be reapportioned, spread, and equalized upon and over
 3 the entire area thereof, as provided in 85-7-2021."

4 **Section 23.** Section 85-7-2103, MCA, is amended to read:

5 "85-7-2103. All irrigable lands chargeable alike. (1)
 6 All irrigable lands in each irrigation district and all
 7 lands in each subdistrict of the district, except such those
 8 lands that are included within the district because of the
 9 exchange or substitution of water under the provisions of
 10 85-7-1912, shall pay at the same rate for all purposes for
 11 which the lands are charged, except as otherwise provided by
 12 law. There may be an administrative charge of \$5 to \$25
 13 against each separately owned tract of land regardless of
 14 its size, as provided in 85-7-2104.

15 (2) Whenever water used for the irrigation of any lands
 16 within an irrigation district or subdistrict is obtained by
 17 pumping to different elevations, the cost of maintenance,
 18 operation, and pumping to each separate elevation shall be
 19 apportioned and levied upon the lands lying under the ditch
 20 or ditches running from that particular elevation, in such a
 21 manner as may be determined fair and equitable by the board
 22 of commissioners after considering the facts in each case.
 23 This apportionment ~~shall~~ must be made by the board of
 24 commissioners and included each year in the assessment
 25 provided for by 85-7-2104. The amount of the assessment for

1 maintenance, operation, and pumping of water to each
 2 separate elevation, whenever there are different elevations,
 3 ~~shall must~~ be determined by the board ~~of--commissioners~~ in
 4 ~~such a~~ manner and upon ~~such~~ notice to the persons interested
 5 in the district or subdistrict as the board in its rules may
 6 provide.

7 (3) Whenever a contract has been made with the United
 8 States, the lands within the district or of a subdistrict if
 9 the contract substantially benefits the subdistrict, whether
 10 originally included or later annexed to the district or
 11 subdistrict, shall pay in accordance with the federal
 12 reclamation laws and the public notices, orders, and
 13 regulations issued ~~thereunder~~ under the reclamation laws and
 14 in compliance with any contracts made by the United States
 15 with the owners of the lands and in compliance with the
 16 contract between the districts and the United States.

17 (4) Whenever a contract has been made with the state of
 18 Montana, the lands within the district or of a subdistrict
 19 if the contract substantially benefits the subdistrict,
 20 whether originally included or later annexed to the district
 21 or subdistrict, shall pay in accordance with state laws and
 22 public notices and rules issued ~~thereunder~~ under the laws
 23 and in compliance with any contract made by the state with
 24 the owners of the lands and in compliance with the contract
 25 between the district and the state.

1 (5) Whenever the works necessary for the completed
 2 project are constructed progressively over a period of years
 3 and whenever a portion of the lands within the district are
 4 or can be irrigated 1 year or more before the completion of
 5 the entire project, those lands ~~so~~ irrigated or that can be
 6 ~~so~~ irrigated through the built portion of the project shall
 7 pay for the cost of operating that portion of the project
 8 serving them with irrigation water and also shall pay ~~such~~
 9 the portion of the interest charges as its irrigable area
 10 bears to the irrigable area of the entire project.

11 (6) Whenever lands have appurtenant thereto a partial
 12 water right or partial rights in a system of irrigation
 13 other than that of the district or subdistrict, the amounts
 14 payable ~~shall must~~ be equitably apportioned.

15 (7) Whenever the owners of a portion of the lands
 16 within an irrigation district choose to install a gravity
 17 system to irrigate those lands, the cost of constructing the
 18 gravity system ~~shall must~~ be apportioned among and levied
 19 upon the lands irrigated by the gravity system in a manner
 20 determined to be equitable by the board. The levy ~~shall must~~
 21 be included each year in the assessment charged under
 22 85-7-2104."

23 **Section 24.** Section 85-7-2104, MCA, is amended to read:

24 "85-7-2104. Annual tax levy -- apportionment when
 25 tracts divided. (1) (a) On or before the second Monday in

1 July each year, the board of commissioners of each
2 irrigation district organized under parts 1 and 15 shall
3 ascertain:

4 (i) the total amount required to be raised in that year
5 for the general administrative expenses of the district,
6 including the cost of maintenance and repairs; and

7 (ii) the total amount to be raised that year for
8 interest on and principal of the outstanding bonded or other
9 indebtedness of the district, ~~including any indebtedness~~
10 ~~incurred under any contract between the district and the~~
11 ~~United States, accompanying~~ for which bonds of the district
12 have not been deposited with the United States as provided
13 in 85-7-1906.

14 (b) The board shall levy against each 40-acre tract or
15 fractional lot, as designated by the United States public
16 government survey, or platted lot, if land is subdivided in
17 lots and blocks (or where land is owned in less than 40-acre
18 tracts or in less than the platted lot, then against each
19 such tract) of land in the district, that portion of the
20 respective total amounts so to be raised which the total
21 irrigable area of any such tract or lot bears to the total
22 irrigable area of the lands in the district, so that each
23 acre of irrigable land in the district shall must be
24 assessed and required to pay the same amount as every other
25 acre of irrigable land therein, unless otherwise

1 specifically provided by the board. The board of
2 commissioners may make a charge of \$5 to \$25 against each
3 separately owned tract of land, regardless of its size.

4 (c) Indebtedness under subsection (1) includes debt
5 incurred under any contract between the district and the
6 United States but excludes any indebtedness incurred by the
7 district on behalf of a subdistrict.

8 (2) (a) On or before the second Monday in July each
9 year, the board of commissioners of each irrigation district
10 organized under parts 1 and 15 for which a subdistrict has
11 been created pursuant to [section 4] shall determine the
12 total amount to be raised that year for interest and
13 principal payments on the outstanding bonded or other
14 indebtedness of the district incurred on behalf of the
15 subdistrict.

16 (b) The board shall levy against each 40-acre tract or
17 fractional lot, as designated by United States government
18 survey, or platted lot if land is subdivided in lots and
19 blocks (or where land is owned in less than 40-acre tracts
20 or in less than the platted lot, against each tract) in the
21 subdistrict, the portion of the total amount to be raised
22 apportioned according to the ratio of the total irrigable
23 area of the tract or lot to the total irrigable area of the
24 lands in the subdistrict, so that each acre of irrigable
25 land in the subdistrict is assessed and required to pay the

1 same amount as every other acre of irrigable land in the
 2 subdistrict, unless otherwise specifically provided by the
 3 board. The board may charge \$5 to \$25 against each
 4 separately owned tract or lot of land, regardless of its
 5 size.

6 (3) In the event that the ownership of any such 40-acre
 7 tract or other subdivision of land in the district ~~shall be~~
 8 or subdistrict is divided after a special tax or assessment
 9 against the ~~same land~~ has been levied, each ~~or either~~ of the
 10 owners of ~~such a tract or subdivisions shall be~~ subdivision
 11 is entitled to have ~~such the~~ special tax or assessment
 12 equitably apportioned to and against ~~said the~~ divisions of
 13 ~~such the tract or subdivisions~~ subdivision, so that each
 14 owner ~~shall be~~ is enabled to pay ~~such a~~ special tax or
 15 assessment against his portion of ~~such the~~ tract or
 16 subdivision and have the ~~same land~~ discharged from the lien
 17 thereof. In no event shall the charge against any separately
 18 owned tract of land be less than \$5."

19 **Section 25.** Section 85-7-2107, MCA, is amended to read:

20 "85-7-2107. Procedure for the determination of
 21 irrigable area. (1) For the purpose of determining the
 22 number of acres of irrigable lands in each 40-acre tract or
 23 fractional lot as designated by the United States public
 24 government survey or platted lot, if land is subdivided in
 25 lots and blocks (or whenever land is owned in less than

1 40-acre tracts or in less than the platted lot, then in each
 2 ~~such tract~~ of land in the district or subdistrict, the
 3 board of commissioners of any irrigation district
 4 established under part 1, whenever considered advisable and
 5 at any time except as otherwise provided, may cause a
 6 careful topographical survey and map of the lands to be
 7 made, as well as a specific examination of the character of
 8 the soil of each tract. Upon completion of the survey and
 9 maps and examination, the board shall give notice that at a
 10 meeting of the board, to be held at the office of the board
 11 on a day to be fixed in the notice, the board will determine
 12 the irrigable area of each tract of land in the district or
 13 subdistrict and that it will hear and consider any objection
 14 on the part of any landowner in the district, or in a
 15 subdistrict if only the irrigable area of the subdistrict is
 16 being determined, to the determination and to adjustment of
 17 the irrigable area of the district or subdistrict or of any
 18 lands within any tract or subdivision ~~thereof of the~~
 19 district or subdistrict. It is not necessary to describe the
 20 tracts in the notice. The notice ~~shall~~ must be given by
 21 publication once a week for 2 successive calendar weeks in a
 22 newspaper of general circulation in the county where the
 23 office of the board is located, and whenever lands of any
 24 irrigation district or subdistrict lie in more than one
 25 county, the notice ~~shall~~ must also be published in a

1 newspaper or newspapers of general circulation in each
2 county. The last publication of the notice ~~shall~~ must be at
3 least 5 days prior to the date fixed for the meeting.

4 (2) At the meeting, the board shall ~~proceed--to~~
5 determine and fix the number of acres in each tract or
6 subdivision irrigable from the works or proposed works of
7 the district or subdistrict and shall hear all persons
8 interested who may appear and shall continue in session from
9 day to day (exclusive of Sundays and legal holidays) as long
10 as may be necessary and until the determination of irrigable
11 area is completed. The board shall hear and receive all
12 evidence offered, including maps and surveys caused to be
13 prepared by it as well as maps and surveys prepared by any
14 owner of lands. Upon ~~such~~ determination, the irrigable area
15 ~~so fixed shall-become-and-thereafter-be~~ is the acreage upon
16 which any special tax or assessment ~~shall~~ must be levied,
17 and each irrigable acre shall pay at the same rate as every
18 other acre of irrigable land in the district or subdistrict,
19 except as otherwise provided by law."

20 **Section 26.** Section 85-7-2108, MCA, is amended to read:

21 "85-7-2108. Taxes to be lien upon land. Any special tax
22 or assessment levied for any purpose is a lien upon the
23 entire 40-acre tract or fractional lot as designated by the
24 United States public government survey or platted lot, if
25 land is subdivided in lots and blocks (or whenever land is

1 owned in less than 40-acre tracts or in less than the
2 platted lot, ~~then~~ against each such tract) of land in the
3 district or subdistrict of which the irrigable area forms a
4 part, and the lien shall attach to the entire tract as of
5 January 1 in the year in which the special tax or assessment
6 is levied."

7 **Section 27.** Section 85-7-2109, MCA, is amended to read:

8 "85-7-2109. List of all lands in district or
9 subdistrict to be prepared. Upon completing the
10 determination, the board shall fix, by appropriate
11 resolution or order, the total acreage and the irrigable
12 acreage of each tract or subdivision and shall ~~cause--to--be~~
13 prepared prepare a list of all lands in the district ~~7-which~~
14 or subdistrict. The list ~~shall~~ must contain an accurate
15 description of each 40-acre tract or fractional lot as
16 designated by the United States public government survey or
17 platted lot, if land is subdivided in lots and blocks (or
18 whenever land is owned in less than 40-acre tracts or in
19 less than the platted lot, then of each such tract) of land
20 in the district or subdistrict, the total acreage and the
21 number of irrigable acres therein as ~~so~~ fixed and
22 determined, and the name of the owner or holder of title or
23 evidence of title ~~thereof~~, ascertained as provided in
24 85-7-101 and 85-7-102. This list, when completed and
25 adopted, ~~shall~~ must be filed in the office of the board of

1 commissioners and shall remain there for public inspection.
 2 A certified copy of the resolution and list ~~shall~~ must be
 3 filed with the county clerk and recorder of each county in
 4 which any portion of the lands in the district is situated.
 5 The lands not situated in the county in which ~~such the~~ copy
 6 is filed ~~shall~~ must be omitted from the copy."

7 **Section 28.** Section 85-7-2110, MCA, is amended to read:

8 "85-7-2110. Nonirrigable lands not to be taxed. No A
 9 special tax or assessment may not be levied against any
 10 40-acre tract or fractional lot as designated by the United
 11 States public survey or platted lot, if land is subdivided
 12 in lots and blocks (or whenever lands are owned in less than
 13 40-acre tracts or in less than the platted lot, then against
 14 each such tract) found by the board of commissioners to
 15 contain no irrigable land, ~~nor may any~~ A lien created after
 16 the order of determination may not attach to any such
 17 nonirrigable tract, nor may the owner or owners of any
 18 nonirrigable tract or tracts have any vote or votes in any
 19 proceeding or election under the provisions of Chapter 146
 20 of the Laws of 1909 or any amendment thereof or act
 21 supplementary thereto, after the making of such the order,
 22 unless their land or a portion thereof of their land is
 23 found by the board to contain an area irrigable from the
 24 works or proposed works of the district or subdistrict."

25 **Section 29.** Section 85-7-2112, MCA, is amended to read:

1 "85-7-2112. Confirmation of board actions by district
 2 court. (1) Within 60 days after the resolution adopting the
 3 list, the board of commissioners may petition the district
 4 court for confirmation of their its acts in determining the
 5 irrigable area and in refunding or canceling any taxes or
 6 assessments. The majority in number and acreage of the
 7 holders of title or evidence of title to lands in the
 8 district or the majority in number and acreage of the
 9 holders of title or evidence of title in the subdistrict if
 10 only the irrigable area of the subdistrict is to be
 11 reviewed, ascertained determined as provided in 85-7-101 and
 12 85-7-102, may likewise within ~~such the~~ 60-day period
 13 petition the district court for review of the actions of the
 14 board of--commissioners. However, one of these proceedings,
 15 if prosecuted to determination, is exclusive of the other.
 16 ~~Upon such proceeding, the~~ The court may order any assessment
 17 of taxes upon any land or lands to be reduced or raised
 18 according to the irrigable area as found by the court or
 19 taxes previously levied upon any area shown to be excessive
 20 to be refunded or canceled.

21 (2) The provisions of 85-7-1808 through 85-7-1810
 22 regarding the procedure as well as the right and time to
 23 appeal apply to any proceeding instituted pursuant to this
 24 section, provided nothing in this section affects or impairs
 25 the lien of any bonds issued by the district. If

confirmation proceedings are held and a certified copy of the order of confirmation is filed with the county clerk and recorder of the county in which any portion of the lands is situated, it is not necessary to file in the office the certified copy of the resolution and order of the board or of the list provided for in this section."

Section 30. Section 85-7-2114, MCA, is amended to read:

"85-7-2114. Apportionment of costs when bonds issued.

(1) Whenever a petition for the issuance of bonds of any irrigation district established under the provisions of part 1 has been filed as provided in 85-7-2012 through 85-7-2015, the board of commissioners of the district shall examine or cause to be examined each 40-acre tract or fractional lot as designated by the United States public survey or platted lot, if land is subdivided in lots and blocks (or whenever land is owned in less than 40-acre tracts or in less than the platted lot, then each such tract) of land in the district or of land in a subdistrict if the bonds are to be issued on behalf of the subdistrict, and cause a careful topographical survey and map to be made in the manner provided for in 85-7-2107. Upon such the examination, the board shall determine the number of irrigable acres in each such tract and shall apportion and distribute the cost of the works or improvements for which the bonds are to be issued over the tracts within the district or subdistrict

according to the irrigable area in each of the tracts or subdivisions, so that each such irrigable acre is required to bear the same burden of such costs as each other irrigable acre in the district or subdistrict, except as otherwise provided by law. The special tax or assessment levied to meet the principal of and interest on the bonds ~~so~~ authorized is a lien upon the entire tract of which such the irrigable area forms a part or portion as of January 1 of the year in which the special tax or assessment is levied, and the number of irrigable acres in each such tract ~~as~~ so determined may not be diminished but may be increased during the term for which any-such the bonds are issued or until the bonds are liquidated in full.

(2) Whenever a proceeding for the determination, in whole or in part, of the irrigable area of the lands in the district or subdistrict has already been had or a topographical survey or maps thereof prepared or a court confirmation of prior proceedings had, in part or in full, the board may, in its discretion, adopt all or such portions of the prior proceedings and need not cause an additional survey or maps or examination of any of such the tracts to be made or redetermine the irrigable area of any such tract.

(3) The board shall make such the determination after the hearing and shall fix the total acreage and the irrigable acreage and shall cause prepare a list of such the

1 irrigable area ~~to--be--made--and--filed~~ for filing, and the
 2 proceedings of the board in connection with ~~such~~ the
 3 determination, including the hearing and notice of the
 4 hearing and order or resolution fixing the irrigable area
 5 and the preparation and filing of the list, shall conform to
 6 the requirements set forth in 85-7-2107 through 85-7-2113.
 7 At the hearing, the board shall also determine the amount
 8 and rate per acre necessary to be levied against each
 9 irrigable acre in the district to meet the interest on and
 10 principal of the authorized bond issue, ~~and any~~ The tax
 11 levied ~~for such purposes~~ is a lien upon the entire tract of
 12 which the irrigable area forms a part. If any landowner in
 13 the district or subdistrict appears before the board at that
 14 time and pays in cash the amount fixed against his land as
 15 its proportion of the amount found necessary for the
 16 purposes for which the bonds were authorized and are to be
 17 issued, his land ~~shall~~ must be excluded from the lien of the
 18 bond issue and the amount of bonds intended to be issued
 19 shall be reduced by the amount of ~~such~~ the payment. Any
 20 person interested who fails to appear before the board at
 21 the meeting may not thereafter ~~be permitted to~~ contest the
 22 proceedings of the board or any part thereof, except upon
 23 special application to the court in the proceedings for the
 24 confirmation of the bonds and a showing of reasonable excuse
 25 for failure to appear before the board ~~of commissioners.~~"

1 **Section 31.** Section 85-7-2115, MCA, is amended to read:
 2 "85-7-2115. Objection by landowner. In case any ~~such~~
 3 landowner makes objection to the proceedings of the board in
 4 determining the irrigable area in his own or any other tract
 5 of land or the amount or rate per acre of the special tax
 6 and assessment to be levied against each irrigable acre in
 7 the district or subdistrict for the purposes of the proposed
 8 bond issue and the objection is overruled by the board, the
 9 objection without further proceedings ~~shall~~ must be regarded
 10 as appealed to the district court and shall, with the other
 11 proceedings of the board at the meeting, be heard at the
 12 proceedings to confirm the bonds, as provided in 85-7-2016
 13 through 85-7-2018, and when ~~so~~ confirmed, the order
 14 overruling ~~such~~ the objection and confirming the order of
 15 the board determining the irrigable area of each tract of
 16 land and apportioning the cost of the improvement ~~thereto to~~
 17 each tract shall become final, binding, and conclusive upon
 18 the landowner and upon the district, unless appealed from as
 19 provided in 85-7-2018."

20 **Section 32.** Section 85-7-2116, MCA, is amended to read:
 21 "85-7-2116. Restrictions on reduction of taxable
 22 acreage. Whenever the irrigable area of the lands in any
 23 irrigation district or subdistrict has been determined and
 24 confirmed, no owner or holder of title or evidence of title
 25 to lands in the district or subdistrict, during the period

1 when any bonds thereafter--authorized are issued and
2 outstanding, may have the taxable acreage of his lands fixed
3 or adjudicated in the manner provided by 85-7-1841 through
4 85-7-1845 in such a manner or to such an extent as to reduce
5 the acreage subject to the payment of the bonds or interest
6 thereon or in such a manner as to affect the security of the
7 bonds or interest thereon on the bonds."

8 NEW SECTION. Section 33. Codification instruction.
9 [Sections 1 through 7] are intended to be codified as an
10 integral part of Title 85, chapter 7, and the provisions of
11 Title 85, chapter 7, apply to [sections 1 through 7].

12 NEW SECTION. Section 34. Saving clause. [This act]
13 does not affect rights and duties that matured, penalties
14 that were incurred, or proceedings that were begun before
15 [the effective date of this act].

16 NEW SECTION. Section 35. Severability. If a part of
17 [this act] is invalid, all valid parts that are severable
18 from the invalid part remain in effect. If a part of [this
19 act] is invalid in one or more of its applications, the part
20 remains in effect in all valid applications that are
21 severable from the invalid application.

22 NEW SECTION. Section 36. Effective date. [This act] is
23 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB650, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

HB650 would generally revise and clarify the laws relating to irrigation districts, including new authority for a board of commissioners of an irrigation district to create a subdistrict.

ASSUMPTIONS:

1. There is no fiscal impact to the Dept. of Natural Resources and Conservation or the Dept. of Commerce.
2. There is no identifiable state fiscal impact.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

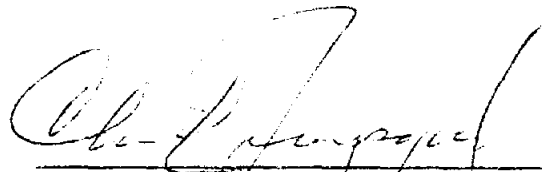
There is no direct fiscal impact to the counties assuming the purchase of irrigation district indebtedness is discretionary and that future assessments are pledged against the indebtedness.



RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE

2/18/89



CHUCK SWYSGOOD, PRIMARY SPONSOR

DATE

2-18-89

Fiscal Note for HB650, as introduced

HB 650

APPROVED BY COMMITTEE
ON AGRICULTURE LIVESTOCK
& IRRIGATION

HOUSE BILL NO. 650

INTRODUCED BY SWYSGOOD

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE BOARD OF COMMISSIONERS OF AN IRRIGATION DISTRICT TO CREATE A SUBDISTRICT WITHIN THE DISTRICT; PROVIDING FOR THE CONSTRUCTION OF IRRIGATION IMPROVEMENTS WITHIN A SUBDISTRICT AND FOR THE ISSUANCE OF BONDS TO FINANCE THE IMPROVEMENTS; ALLOWING THE PRIVATE SALE OF BONDS OF IRRIGATION DISTRICTS TO CERTAIN GOVERNMENTAL ENTITIES; CLARIFYING THAT BONDS OF IRRIGATION DISTRICTS ISSUED TO THE STATE OF MONTANA AND ITS AGENCIES AND DEPARTMENTS DO NOT CONSTITUTE INDEBTEDNESS; ALLOWING SPECIAL ASSESSMENTS OR LEVIES ON PROPERTY OWNERS WITHIN A SUBDISTRICT; AND REVISING OTHER PROVISIONS RELATING TO IRRIGATION DISTRICTS TO ALLOW FOR SUBDISTRICTS; AMENDING SECTIONS 85-7-1904, 85-7-1907, 85-7-1908, 85-7-1910, 85-7-1911, 85-7-1921, 85-7-2001, 85-7-2012 THROUGH 85-7-2014, 85-7-2019, 85-7-2021, 85-7-2023, 85-7-2101 THROUGH 85-7-2104, 85-7-2107 THROUGH 85-7-2110, 85-7-2112, AND 85-7-2114 THROUGH 85-7-2116, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Authority to create subdistricts -- petition -- requirements. (1) The board of

commissioners of an irrigation district created and organized under Title 85, chapter 7, parts 1 and 15, may establish one or more subdistricts within the irrigation district to provide for and finance the cost of irrigation works, including gravity irrigation systems, gravity measure systems, or sprinkling systems, that would irrigate lands in the subdistrict but not other lands in the district. A subdistrict may be established only upon a petition signed by at least 60%, in number and acreage, of the holders of title or evidence of title to lands to be included within the subdistrict. The petition must be addressed to and filed with the board of commissioners and be accompanied by a map or plat of the proposed subdistrict.

(2) The petition must state:

(a) the name suggested for the proposed subdistrict;

(b) a general description of the land to be included in the proposed subdistrict;

(c) the name of each holder of title or evidence of title to the lands in the proposed subdistrict, as determined according to 85-7-101 and 85-7-102 and, if a holder is a nonresident of the county or counties in which the proposed district lies, the post-office address of the nonresident owner, if known;

(d) the general water source from which the land in the proposed subdistrict will be irrigated and the general

1 character of the works, water rights, canals, and other
2 property proposed to be acquired or constructed for
3 irrigation purposes in or for the benefit of the proposed
4 subdistrict; and

5 (e) a request that the land within the proposed
6 subdistrict be made a subdistrict according to the
7 provisions of [sections 1 through 4].

8 **NEW SECTION. Section 2. Notice of hearing on petition**
9 **to create subdistrict.** (1) Upon the filing of a petition to
10 create a subdistrict, the board of commissioners of the
11 irrigation district shall by order fix the time and place
12 for a hearing on the petition and shall direct that notice
13 of the hearing be given.

14 (2) The notice of the hearing must state:

15 (a) the name of the proposed subdistrict and its
16 purpose;

17 (b) the time and place of the hearing;

18 (c) a general description of the land proposed to be
19 included in the subdistrict;

20 (d) a general description of the water source; and

21 (e) the general character of the works, water rights,
22 canals, and other property proposed to be acquired or
23 constructed in or for the benefit of the subdistrict.

24 (3) The board shall publish notice of the hearing at
25 least once a week for 2 successive weeks in a newspaper

1 published in each county in which the proposed subdistrict
2 is located. The first publication must occur not less than
3 15 days before the date of the hearing.

4 (4) Notice of the hearing must also be mailed not less
5 than 15 days before the date of the hearing to each holder
6 of title or evidence of title to land within the proposed
7 subdistrict. However, a defect in the notice or failure to
8 give mailed notice does not affect the validity of the
9 proceeding for the creation of a subdistrict under [sections
10 1 through 4].

11 **NEW SECTION. Section 3. Hearing on petition to create**
12 **subdistrict.** (1) The board of commissioners shall hear the
13 petition at the time specified in the notice provided under
14 [section 2]. The board may adjourn the hearing for lack of
15 sufficient notice or other good cause. The hearing must be
16 completed within 3 weeks of the initial hearing.

17 (2) Upon application of the petitioners or any
18 interested person or persons, the board shall allow the
19 petition to be amended and may order that additional notice
20 be given.

21 (3) At the hearing, any person whose land or property
22 rights may be damaged or benefited by the creation of the
23 subdistrict or by the irrigation works or improvements to be
24 acquired or constructed in or for the benefit of the
25 subdistrict may appear and submit oral or written testimony.

1 NEW SECTION. Section 4. Review of petition --
 2 creation of irrigation subdistrict. (1) After the hearing on
 3 the creation of the proposed subdistrict, the board of
 4 commissioners shall by resolution create the subdistrict if
 5 it finds that:
 6 (a) the petition substantially complies with the
 7 provisions of [section 1]; and
 8 (b) it is in the best interests of the holders of
 9 title or evidence of title in the subdistrict and the
 10 district to establish the subdistrict.
 11 (2) The board shall describe in the resolution the
 12 land to be included in the subdistrict. The land does not
 13 need to be contiguous but must be located within the
 14 district.
 15 (3) In creating the subdistrict proposed by the
 16 petition, the board may alter the geographic area of the
 17 subdistrict or the scope or type of irrigation improvements
 18 to be undertaken in or for the benefit of the subdistrict,
 19 subject to the following conditions:
 20 (a) The board may not include within the subdistrict
 21 land not identified by the petition as part of the proposed
 22 subdistrict unless notice and hearing on the addition are
 23 provided according to [sections 2 and 3].
 24 (b) The board may not exclude land from the proposed
 25 subdistrict if:

1 (i) the land can be irrigated from the same general
 2 source and by the same general system of works proposed for
 3 other land in the subdistrict; and
 4 (ii) the owner or owners of the land file a written
 5 statement with the board requesting that the land be
 6 included in the subdistrict.
 7 (c) The board shall exclude land from the proposed
 8 subdistrict if it determines that:
 9 (i) the land will not benefit from irrigation obtained
 10 from the works of the proposed subdistrict; or
 11 (ii) the land has appurtenant water rights or can be
 12 irrigated from sources more feasible than the proposed
 13 subdistrict and the owner or owners of the land have not
 14 filed a written statement with the board consenting to
 15 inclusion of the land in the subdistrict.
 16 (4) For purposes of including or excluding land from a
 17 proposed subdistrict, the board of commissioners may
 18 subdivide any tract into 40-acre or smaller parcels.
 19 (5) The creation of a subdistrict by the board of
 20 commissioners is conclusive on all owners of land within the
 21 subdistrict unless, within 30 days after adoption by the
 22 board of the resolution establishing the subdistrict, a
 23 holder of title or evidence of title to land within the
 24 subdistrict petitions the district court of the county in
 25 which the greater portion of the proposed subdistrict is

located, for review of the creation of the subdistrict. Upon the timely filing of a petition for review of the creation of the subdistrict, the district court shall conduct a hearing and shall issue a decision in substantially the same manner required for review of a petition for an irrigation district under 85-7-105 through 85-7-108. The district court shall base its decision on whether the requirements of [sections 1 through 3] and subsections 1 through 4 of this section have been met.

(6) A proceeding initiated in the district court for review of the validity of the bond issue or issues to finance the irrigation improvements to be undertaken in the subdistrict may be consolidated with a proceeding initiated under this section. Any indebtedness or liability incurred by the board of commissioners of the district with respect to or on behalf of a subdistrict, including bonds issued by the district, may not constitute a charge or lien on any land in the district except the land within the subdistrict.

NEW SECTION. Section 5. Alteration and determination of subdistrict acreage. (1) Land may be deleted from or added to the subdistrict in the same manner provided for irrigation districts in 85-7-1801 through 85-7-1810.

(2) Land in a subdistrict that is deleted from an irrigation district remains in the subdistrict unless it is specifically deleted from the subdistrict according to

subsection (1).

(3) The taxable area of the land in the subdistrict may be determined in the manner provided in 85-7-1841 through 85-7-1845.

NEW SECTION. Section 6. Dissolution of subdistrict.

A subdistrict created under [section 4] may be dissolved by order of the district court of the county in which the greatest portion of lands of the subdistrict are located, in the manner provided for dissolution of irrigation districts in Title 85, chapter 7, part 10.

NEW SECTION. Section 7. Private sale of bonds to certain governmental entities. The district may sell bonds issued under Title 85, chapter 7, part 20, to the United States, the state of Montana, or any agency, department, or instrumentality of these governments by negotiation and without public advertisement or solicitation of bids.

Section 8. Section 85-7-1904, MCA, is amended to read:

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

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

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

(c) acquire by purchase, lease, contract,

condemnation, or other legal means:

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

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

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

(3) No A purchase, lease, or contract for purchase of any water, water rights, canals, reservoirs, reservoir sites, dam sites, irrigation works, or other property of any nature or kind or for the making or purchasing of surveys, maps, plans, estimates, and specifications or for the purchase of machinery for pumping plants or for the erection of buildings, aqueducts, and other structures necessarily used in connection with such pumping plants, for a price or rental in excess of \$150,000 or 25% of the district's annual operation and maintenance budget, whichever is greater, ~~is final--or--binding upon the district, and no sum may be paid for such purchase, lease, or contract~~ may not be entered into by the district without the written consent or petition

of at least a majority in number and acreage of the holders of title or evidence of title to the lands within the district or, if the purchase, lease, or contract substantially benefits a subdistrict in the district, by a majority in number and acreage of the holders of title or evidence of title to lands within the subdistrict. Any splitting or division of such a purchase, lease, or contract with the purpose or intention of avoiding or circumventing the provisions of this section ~~shall render such~~ renders the divided or split contract or contracts void."

Section 9. Section 85-7-1907, MCA, is amended to read:

"85-7-1907. Board power to provide sufficient water. ~~Said~~ The board may also construct and maintain the necessary dams, reservoirs, and works for the collection and distribution of water for the district or any subdistrict in the district, from one or more sources and from different and additional sources; operate such works; secure, in any of the manners provided in this chapter, additional water supplies from the same or different sources; and do any and every lawful act necessary to be done in order that sufficient water may be furnished for irrigation purposes to all the lands in the district or subdistrict included at the time of its organization or at any time thereafter."

Section 10. Section 85-7-1908, MCA, is amended to read:

1 "85-7-1908. Board powers over district property. (1)
2 The board ~~is--hereby--authorized-and-empowered-to~~ may take
3 conveyances or other assurances for all property acquired by
4 it under the provisions of this chapter, in the name of the
5 district, to and for the uses and purposes ~~herein-expressed~~
6 in this chapter.

7 (2) The legal title to all property acquired by or for
8 any irrigation district or any subdistrict in the district
9 under the provisions of this chapter shall immediately and
10 by operation of law vest in such that district, as set forth
11 in this chapter. The board of commissioners ~~is--hereby~~
12 ~~authorized---and---empowered--to~~ may hold, use, maintain,
13 acquire, manage, occupy, and possess ~~said that~~ property, as
14 herein provided in this chapter. Any property ~~so~~ acquired by
15 the district may be conveyed to the United States ~~insofar-as~~
16 ~~the--same-may-be-needed~~ for the construction, operation, and
17 maintenance of works by the United States for the benefit of
18 the district or a subdistrict in the district under any
19 contract that may be entered into with the United States
20 pursuant to this chapter."

21 **Section 11.** Section 85-7-1910, MCA, is amended to
22 read:

23 "85-7-1910. Board power to dispose of district
24 property. (1) The board of commissioners ~~shall--have--the~~
25 power may, with the written consent of a majority in number

1 and acreage of the owners of the lands in the district or,
2 if the leased property substantially benefits a subdistrict
3 in the district, of a majority in number and acreage of the
4 owners of lands within the subdistrict, to lease in whole or
5 in part the system of canals and works or water belonging to
6 the district, whenever such the leasing ~~may-be-deemed is~~
7 considered for the benefit of the district or subdistrict,
8 if the leased property substantially benefits the
9 subdistrict. When ~~said the~~ board contemplates the leasing
10 of the canals or works or water of such a district or
11 subdistrict, it shall ~~so~~ declare the availability of the
12 lease by resolution or order and give notice thereof by
13 publishing-the-same publication in some newspaper published
14 in the county in which the office of such that irrigation
15 district is situated at least 2 calendar weeks prior to the
16 making of any lease. ~~No-such A~~ lease ~~shall may not~~ be made
17 unless a majority in number and acreage of the holders of
18 title or evidence of title to the lands in the district
19 ~~shall or,~~ if the lease substantially benefits a subdistrict,
20 a majority in number and acreage of the holders of title or
21 evidence of title to lands within the subdistrict, file with
22 the board a written consent to make such the lease. Such
23 The lease ~~shall-in-no-way may not~~ interfere with any rights
24 that may have been established by law at the time such the
25 lease is made, nor ~~shall-such may the~~ lease operate ~~so-as~~ to

1 deprive any owner or owners of land in ~~such the~~ district of
 2 the use of water from such works upon ~~such the~~ lands. The
 3 board of commissioners shall require a good and sufficient
 4 bond to secure the faithful performance of the lease by the
 5 lessee.

6 (2) In addition to all other powers heretofore granted
 7 any irrigation district existing under the laws of Montana,
 8 for the purpose of securing financial aid in any form from
 9 the department of natural resources and conservation, an
 10 irrigation district may convey, assign, transfer, and set
 11 over to the department all or any part of its property,
 12 including all water rights, rights-of-way, and easements for
 13 reservoirs, reservoir sites, canals, ditches, laterals, and
 14 headgates, as may be required by the department as a
 15 condition to furnishing ~~such~~ financial aid or assistance.

16 (3) If any an irrigation district has ceased
 17 operation, ~~such the~~ district prior to its dissolution ~~shall~~
 18 ~~be-authorized-and-empowered-to~~ may convey, assign, transfer,
 19 and set over to any person or association of persons all or
 20 any part of its property ~~enumerated~~ described in subsection
 21 (2), for the purpose of irrigating and reclaiming any or all
 22 other land which can be served and irrigated ~~therefrom~~."

23 **Section 12.** Section 85-7-1911, MCA, is amended to
 24 read:

25 "85-7-1911. Apportionment of water by board. (1) The

1 board of commissioners shall apportion the water for
 2 irrigation among the lands in the district or a subdistrict
 3 in the district in a just and equitable manner, and the
 4 maximum amount apportioned to any land shall be the amount
 5 that can be beneficially used on ~~said the land,~~ and-such
 6 The amount of water ~~shall-become-and-shall-be~~ is appurtenant
 7 to the land and inseparable from ~~the-same~~ it but subject to
 8 reduction as ~~hereinafter~~ provided in this chapter.

9 (2) In the event of a shortage of water, the amount of
 10 water delivered to each particular tract or piece of land
 11 shall be reduced proportionately.

12 (3) All surplus water belonging to the district may be
 13 sold or disposed of by the board for the benefit of the
 14 district or for the benefit of a subdistrict if the surplus
 15 water is derived from water that attaches to the substantial
 16 benefit of the subdistrict.

17 (4) All water, the right to the use of which is
 18 acquired by the district under any contract with the United
 19 States, shall be distributed and apportioned by the district
 20 in accordance with the acts of congress, the rules and
 21 regulations of the secretary of the interior, and the
 22 provisions of ~~said the~~ contract ~~in-relation-thereto~~."

23 **Section 13.** Section 85-7-1921, MCA, is amended to
 24 read:

25 "85-7-1921. Distribution system defined. The words

1 "distribution system", as used in 85-7-1922 through
 2 85-7-1925, ~~shall--denote~~ denotes the entire works and
 3 property of all irrigation districts, including main ditches
 4 and canals, laterals, bilaterals, headgates, flumes,
 5 spillways, boxes, and all other appliances and means by
 6 which the waters of any irrigation district, including a
 7 subdistrict in the district, are or shall be apportioned or
 8 distributed for use."

9 **Section 14.** Section 85-7-2001, MCA, is amended to
 10 read:

11 "85-7-2001. Limitations on debt-incurring power. (1)
 12 The board of commissioners or other officers of the district
 13 may not incur any debt or liability, either by issuing bonds
 14 or otherwise, except as provided in this chapter.

15 (2) No An irrigation district may not become indebted,
 16 in any manner or for any purpose in any one year, in an
 17 amount exceeding 18.75% of the assessed valuation of the
 18 district, except as provided in subsection (2) (4).

19 (3) An irrigation district may not incur indebtedness,
 20 in any manner or for any purpose in any one year, on behalf
 21 of any subdistrict in the district in an amount exceeding
 22 18.75% of the assessed valuation of the subdistrict, except
 23 as provided in subsection (4).

24 (2)(4) (a) For the purpose of organization; for any of
 25 the immediate purposes of this chapter; to make or purchase

1 surveys, plans, and specifications; for stream gauging and
 2 gathering data; or to make any repairs occasioned by any
 3 calamity or other unforeseen contingency, the board of
 4 commissioners may, in any one year, incur the indebtedness
 5 of as many dollars as there are acres in the district and
 6 may cause issue warrants of the district ~~to-issue-therefor~~.

7 (b) For the purpose of organization, for any of the
 8 immediate purposes of this chapter, or to meet the expenses
 9 occasioned by any calamity or other unforeseen contingency,
 10 the board of commissioners may, in any one year, incur (in
 11 addition to the 18.75% ~~limitation~~ LIMITATIONS of subsection
 12 ~~(1)~~ SUBSECTIONS (2) AND (3)) an additional indebtedness not
 13 exceeding 12.5% of the assessed valuation of the district
 14 and may cause issue warrants of the district ~~to-issue~~
 15 therefor.

16 (c) The ~~limitation~~ LIMITATIONS of subsection-(1)--~~does~~
 17 SUBSECTIONS (1) THROUGH (3) DO not apply to warrants issued
 18 for unpaid interest on the valid bonds of any irrigation
 19 district.

20 (d) The ~~limitation~~ LIMITATIONS of subsection-(1)--~~does~~
 21 SUBSECTIONS (1) THROUGH (3) DO not apply to any bonds or
 22 obligations issued to the state of Montana, the United
 23 States, or any department, agency, or instrumentality of
 24 these governments if the bonds or obligations are issued:

25 (i) pursuant to a loan program specifically authorized

1 by the legislature; or
 2 (ii) to finance in whole or in part a project
 3 authorized by the legislature.

4 (e) The limitation LIMITATIONS of subsection-(i)--does
 5 SUBSECTIONS (1) THROUGH (3) DO not apply to any bonds issued
 6 under this chapter pursuant to a provision which that
 7 expressly supersedes the limitation.

8 {3}{5} Any debt or liability incurred in excess of the
 9 limitations provided by the irrigation district laws is
 10 void.

11 {4}--The-limitation-of-subsection-(i)-does-not-apply-to
 12 state--or-federal-bonds-used-for-a-project-authorized-by-the
 13 legislature."

14 **Section 15.** Section 85-7-2012, MCA, is amended to
 15 read:

16 **"85-7-2012. Purposes for which bonds may be issued.**
 17 The board of commissioners of a district established under
 18 the provisions of Title 85, chapter 7, part 1, may authorize
 19 and issue negotiable fully registered bonds or negotiable
 20 coupon bonds for of the district for the purpose of
 21 providing the necessary funds for:

22 (1) constructing the necessary irrigation canals and
 23 works, including drainage works, and constructing works for
 24 the generation and distribution of electricity within the
 25 district and for acquiring the property and rights necessary

1 therefor;

2 (2) acquiring, by purchase or otherwise, waters, water
 3 rights, canals, reservoirs, reservoir sites, irrigation
 4 works, drainage works, and works for the generation and
 5 distribution of electricity, whether such the works are
 6 constructed or partially constructed;

7 (3) meeting the expense expenses incurred incident to
 8 the construction or acquisition of such the works and
 9 property, including administrative, engineering, and legal
 10 expenses;

11 (4) assuming, as principal or guarantor, indebtedness
 12 to the United States on account of district lands;

13 (5) providing a sufficient amount of money to pay the
 14 interest on all negotiable-coupon bonds of the district for
 15 a period not exceeding 5 years;

16 (6) redeeming or paying all or any portion of the
 17 existing indebtedness of the district, evidenced by
 18 outstanding bonds; delinquent interest coupons, overdue
 19 claims for interest, and accrued interest; or warrants,
 20 together with all delinquent and accrued interest, whether
 21 such the indebtedness has or may hereafter become payable at
 22 the option of the district, by consent of the bondholders,
 23 or by any other lawful means; or

24 (7) establishing a reserve for the payment of
 25 principal and interest on bonds of the district in an amount

determined by the board to be reasonably required to market the bonds; or

~~(7)~~(8) otherwise carrying out the provisions of the irrigation district laws."

Section 16. Section 85-7-2013, MCA, is amended to read:

"85-7-2013. Petition requirements. (1) ~~No-bonds~~ Bonds provided for in 85-7-2012 through 85-7-2015 may not be authorized or issued by or on behalf of any irrigation district organized hereunder under this chapter or by an irrigation district on behalf of a subdistrict located in the district and no a contract may not be made with the United States as provided in 85-7-1906 except upon a petition signed by:

(a) at least 60%, in number and acreage, of the holders of title or evidence of title to lands included within the district or, if the bonds are issued on behalf of or if the contract relates to a subdistrict, at least 60% in number and acreage of the holders of title or evidence of title to lands within the subdistrict; or by

(b) at least 75%, in number and acreage, of the holders of title or evidence of title to ~~such the~~ lands who are residents of the county or counties in which lands of the district are situated or, if the bonds are issued on behalf of or if the contract relates to a subdistrict, at

least 75% in number and acreage of the holders of title or evidence of title to the lands who are residents of the county or counties in which lands of the subdistrict are situated.

(2) The petition ~~shall~~ must be addressed to the board of commissioners, set forth the aggregate amount of bonds to be issued and the purpose or purposes thereof of the bonds, have attached thereto to it an affidavit verifying the signatures to the petition, and be filed with the secretary of the board of commissioners. When bonds are issued for the sole purpose of redeeming or paying the existing and outstanding bonds or warrants, or both, including delinquent and accrued interest, of such the district, such the bonds may be authorized and issued in the manner provided for by 85-7-2019."

Section 17. Section 85-7-2014, MCA, is amended to read:

"85-7-2014. Procedure after petition filed. Upon the filing of the petition, the board of commissioners shall, by appropriate order or resolution, authorize and direct the issuance of the bonds of the district to the amount and for the purpose or purposes specified in the petition; fix the numbers, denominations, and maturity or maturities of the bonds; specify the rate of interest thereon on the bonds and whether payable annually or semiannually; designate the

1 place and method of payment of the bonds and the interest
 2 coupons on the bonds, within or ~~without~~ outside the state of
 3 Montana; prescribe the form of the bonds ~~and--interest~~
 4 ~~coupons--to-be-attached-thereto~~; and provide for the levy of
 5 a special tax or assessment as provided in this chapter on
 6 all the lands in the district or for a levy on a subdistrict
 7 if the bonds are issued on behalf of the subdistrict, for
 8 the irrigation and benefit of which the district or
 9 subdistrict was organized and the bonds are issued or the
 10 contract is to be made, sufficient in amount to pay the
 11 interest on and principal of the bonds when due and all
 12 amounts to be paid to the United States under any contract
 13 between the district and the United States, ~~accompanying~~ for
 14 which bonds of the district have not been deposited with the
 15 United States as provided in 85-7-1906."

16 **Section 18.** Section 85-7-2019, MCA, is amended to
 17 read:

18 "85-7-2019. Refunding bonds. (1) Any irrigation
 19 district may issue refunding bonds.

20 (2) An irrigation district may issue refunding bonds
 21 for the purpose of redeeming or paying the indebtedness or
 22 any portion thereof of the indebtedness of the district,
 23 whether represented by existing and outstanding bonds,
 24 interest coupons ~~thereof~~, or warrants, including accrued and
 25 unpaid interest on the bonds, coupons, and warrants, and

1 whether ~~such the~~ indebtedness is due or not due or has or
 2 may become payable at the option of the district, by consent
 3 of the bondholders or warrant holders, or by any other legal
 4 means and whether such the indebtedness is now existing or
 5 may be created, and funds in the treasury of the district
 6 are not available for the payment of the ~~same~~ indebtedness.
 7 The refunding bonds may be issued in one or more series. The
 8 petition for the refunding bonds, must be signed as required
 9 by law by at least 60% in number and acreage of the holders
 10 of title or evidence of title to the lands included within
 11 the district, or by at least 60% in number and acreage of
 12 the holders of title or evidence of title to the lands
 13 within a subdistrict if the bonds to be refunded were issued
 14 by the district on behalf of the subdistrict, and addressed
 15 to the board of directors or commissioners of the district.
 16 The petition may contain the following specifications, in
 17 addition to the matters ~~now~~ otherwise required by law:

- 18 (a) how many series of bonds shall be issued; and
- 19 (b) the terms, conditions, and liens of the bonds and
- 20 the terms and conditions upon which each of the series of
- 21 bonds shall be exchanged for outstanding bonds of the
- 22 district if the ~~same bonds~~ are to be exchanged and not sold.
- 23 (3) The specifications provided for in subsection (2),
- 24 when set forth in the petition, are controlling upon the
- 25 board of directors or commissioners. The petitioners shall

in the specifications set forth the contract of exchange to be made, with particularity. The contract may include any term, requirement, grant, transfer of property or rights, covenant, or condition considered by the petitioners to be in the best interest of the district or of the subdistrict if the bonds that are the subject of the contract were issued by the district on behalf of the subdistrict. The petition shall state that the board of directors or commissioners of the district may authorize and direct the issuance of bonds according to the specifications of the petition, make any such contract, and bind the irrigation district under the contract."

Section 19. Section 85-7-2021, MCA, is amended to read:

"85-7-2021. Liens of bonds. (1) All bonds issued hereunder under this chapter and all amounts to be paid to the United States under any contract between the district and the United States, accompanying which bonds of the district have not been deposited with the United States as provided in 85-7-1906, shall be a lien upon all the lands originally or at any time included in the district, or upon lands in a subdistrict if the bonds are issued on behalf of the subdistrict, for the irrigation and benefit of which said the irrigation district or subdistrict was organized and said the bonds were issued and for the benefit of which

such contract between the district and the United States was made, except upon such any lands as may at any time be included in such the district or subdistrict on account of the exchange or substitution of water under the provisions of 85-7-1912~~7~~--if-any-there-be; and all such lands ~~shall be~~ are subject to a special tax or assessment for the payment of the interest on and principal of ~~said the~~ bonds. All amounts to be paid to the United States under any such contract between the district and the United States and ~~said the~~ special tax or assessment ~~shall constitute~~ constitute a first and prior lien on the land against which levied to the same extent and with like force and effect as taxes levied for state and county purposes.

(2) All liens herein created under this section remain upon the lands ~~for--a-period-of-8-years-after-the-date-of maturity-of-the-obligation---Thereafter, the lands--and--the titles--thereto--shall be free from any such liens until the obligations of the district for the bonds are discharged, as provided by law or by the resolution of the board of commissioners authorizing their issuance.~~

Section 20. Section 85-7-2023, MCA, is amended to read:

"85-7-2023. Notice of sale of bonds. Before Except as provided in [section 7], before making any sale the board shall, by resolution at a meeting, declare its intention to

1 sell a specified amount of the bonds and the day and hour
 2 and place of such sale. The board shall cause such the
 3 resolution to be entered in the minutes and notice of the
 4 sale to be given by publication thereof at least once a week
 5 for 3 successive calendar weeks in ~~some~~ a newspaper in the
 6 county where the office of the board of commissioners is
 7 located, and the notice may be published in any other
 8 newspaper ~~within--or--without--the-state~~ at its the board's
 9 discretion. The notice shall state that sealed proposals
 10 will be received by the board at its office, for the
 11 purchase of bonds, until the day and hour named in the
 12 resolution. At the time appointed the board shall open the
 13 proposals and award the purchase of the bonds or any portion
 14 or portions thereof to the highest responsible bidder or
 15 bidders. ~~Said~~ The board may reject any or all bids. In case
 16 no award is made, the board ~~thereafter~~ may either
 17 readvertise ~~said~~ the bonds or any part ~~thereof~~ of the bonds
 18 for sale or sell the ~~same~~ bonds or any part ~~thereof~~ of the
 19 bonds at private sale. Coupons evidencing unearned interest
 20 ~~shall~~ must be detached and canceled."

21 **Section 21.** Section 85-7-2101, MCA, is amended to
 22 read:

23 "85-7-2101. Tax or assessment to pay bonds and
 24 interest. (1) All bonds and the interest thereon issued
 25 hereunder under this chapter and all payments due or to

1 become due to the United States under any contract between
 2 the district and the United States, ~~accompanying~~ for which
 3 the bonds of the district have not been deposited with the
 4 United States as provided in 85-7-1906, ~~shall~~ must be paid
 5 by revenue derived from a special tax or assessment levied
 6 upon all the lands included in the district, or upon all
 7 lands in a subdistrict of the district if the bonds are
 8 issued by the district on behalf of the subdistrict, except
 9 upon those lands that have been included in the district or
 10 subdistrict on account of the exchange or substitution of
 11 water under the provisions of 85-7-1912, ~~if there are any.~~
 12 All lands in the district, or in a subdistrict if the bonds
 13 are issued on behalf of the subdistrict, at the time the
 14 bonds are issued and all lands subsequently included which
 15 are ~~so~~ chargeable under the provisions of this chapter ~~shall~~
 16 ~~be and~~ remain liable to be taxed and assessed for the
 17 payment of the bonds and interest and all payments due or to
 18 become due to the United States under any contract between
 19 the district and the United States, ~~accompanying~~ for which
 20 bonds of the district have not been deposited with the
 21 United States as provided in 85-7-1906.

22 (2) The board of commissioners of the district, in the
 23 order or resolution authorizing and directing the issuance
 24 of bonds of the district mentioned in 85-7-2014, shall
 25 provide for the annual levy and collection of a special tax

1 or assessment upon all the lands included in the district,
 2 or in a subdistrict if the bonds are to be issued on behalf
 3 of the subdistrict, and subject to taxation and assessment,
 4 sufficient in amount to meet the interest on the bonds
 5 promptly when and as the same interest accrues and to
 6 discharge the principal thereof of the bonds at their
 7 maturity or respective maturities and to meet all payments
 8 due or to become due to the United States under any contract
 9 between the district and the United States, accompanying for
 10 which bonds of the district have not been deposited with the
 11 United States as provided in 85-7-1906, at the times such
 12 the payments by such the contract become due and payable."

13 **Section 22.** Section 85-7-2102, MCA, is amended to
 14 read:

15 "85-7-2102. Added lands to pay proportional share of
 16 bonded indebtedness. (1) Where a district or subdistrict is
 17 extended after the construction of works of irrigation,
 18 including drainage works, to include other irrigable lands,
 19 such the included lands shall be are chargeable with such
 20 the proportion of the bonded indebtedness incurred or
 21 authorized to be incurred by any district or subdistrict and
 22 such the proportion of the indebtedness incurred under any
 23 contract between the district and the United States,
 24 accompanying for which bonds of the district have not been
 25 deposited with the United States as provided in 85-7-1906,

1 as the district court shall order, as provided in 85-7-1808
 2 through 85-7-1811 and 85-7-1841 through 85-7-1845. The board
 3 of commissioners of the district shall provide for the levy
 4 of a special tax or assessment against such the included
 5 lands on account of said the bonds and the interest thereon
 6 on the bonds and on account of any payments under any
 7 contracts between the district and the United States,
 8 accompanying for which bonds of the district have not been
 9 deposited with the United States, as provided in 85-7-1906.

10 (2) Said The special tax or assessment shall be levied
 11 and collected as and in the manner as the special tax
 12 assessment against the lands of the original district or
 13 subdistrict on account of the payments under any contract
 14 between the district and the United States, accompanying for
 15 which bonds of the district have not been deposited with the
 16 United States as provided in 85-7-1906, and on account of
 17 which said the bonds and the interest thereon on the bonds
 18 is provided for, levied, and collected. Upon the extending
 19 of any such district or subdistrict, the total of said the
 20 bond indebtedness or indebtedness due to the United States
 21 shall be reapportioned, spread, and equalized upon and over
 22 the entire area thereof, as provided in 85-7-2021."

23 **Section 23.** Section 85-7-2103, MCA, is amended to
 24 read:

25 "85-7-2103. All irrigable lands chargeable alike. (1)

1 All irrigable lands in each irrigation district and all
 2 lands in each subdistrict of the district, except ~~such~~ those
 3 lands that are included within the district because of the
 4 exchange or substitution of water under the provisions of
 5 85-7-1912, shall pay at the same rate for all purposes for
 6 which the lands are charged, except as otherwise provided by
 7 law. There may be an administrative charge of \$5 to \$25
 8 against each separately owned tract of land regardless of
 9 its size, as provided in 85-7-2104.

10 (2) Whenever water used for the irrigation of any
 11 lands within an irrigation district or subdistrict is
 12 obtained by pumping to different elevations, the cost of
 13 maintenance, operation, and pumping to each separate
 14 elevation shall be apportioned and levied upon the lands
 15 lying under the ditch or ditches running from that
 16 particular elevation, in ~~such a~~ manner as may be determined
 17 fair and equitable by the board of commissioners after
 18 considering the facts in each case. This apportionment ~~shall~~
 19 must be made by the board of commissioners and included each
 20 year in the assessment provided for by 85-7-2104. The amount
 21 of the assessment for maintenance, operation, and pumping of
 22 water to each separate elevation, whenever there are
 23 different elevations, ~~shall~~ must be determined by the board
 24 ~~of-commissioners~~ in such a manner and upon such notice to
 25 the persons interested in the district or subdistrict as the

1 board in its rules may provide.

2 (3) Whenever a contract has been made with the United
 3 States, the lands within the district or of a subdistrict if
 4 the contract substantially benefits the subdistrict, whether
 5 originally included or later annexed to the district or
 6 subdistrict, shall pay in accordance with the federal
 7 reclamation laws and the public notices, orders, and
 8 regulations issued ~~thereunder~~ under the reclamation laws and
 9 in compliance with any contracts made by the United States
 10 with the owners of the lands and in compliance with the
 11 contract between the districts and the United States.

12 (4) Whenever a contract has been made with the state
 13 of Montana, the lands within the district or of a
 14 subdistrict if the contract substantially benefits the
 15 subdistrict, whether originally included or later annexed to
 16 the district or subdistrict, shall pay in accordance with
 17 state laws and public notices and rules issued ~~thereunder~~
 18 under the laws and in compliance with any contract made by
 19 the state with the owners of the lands and in compliance
 20 with the contract between the district and the state.

21 (5) Whenever the works necessary for the completed
 22 project are constructed progressively over a period of years
 23 and whenever a portion of the lands within the district are
 24 or can be irrigated 1 year or more before the completion of
 25 the entire project, those lands ~~so~~ irrigated or that can be

so irrigated through the built portion of the project shall pay for the cost of operating that portion of the project serving them with irrigation water and also shall pay such the portion of the interest charges as its irrigable area bears to the irrigable area of the entire project.

(6) Whenever lands have appurtenant thereto a partial water right or partial rights in a system of irrigation other than that of the district or subdistrict, the amounts payable ~~shall~~ must be equitably apportioned.

(7) Whenever the owners of a portion of the lands within an irrigation district choose to install a gravity system to irrigate those lands, the cost of constructing the gravity system ~~shall~~ must be apportioned among and levied upon the lands irrigated by the gravity system in a manner determined to be equitable by the board. The levy ~~shall~~ must be included each year in the assessment charged under 85-7-2104."

Section 24. Section 85-7-2104, MCA, is amended to read:

"85-7-2104. Annual tax levy -- apportionment when tracts divided. (1) (a) On or before the second Monday in July each year, the board of commissioners of each irrigation district organized under parts 1 and 15 shall ascertain:

(i) the total amount required to be raised in that

year for the general administrative expenses of the district, including the cost of maintenance and repairs; and

(ii) the total amount to be raised that year for interest on and principal of the outstanding bonded or other indebtedness of the district, ~~including any indebtedness incurred under any contract between the district and the United States, accompanying for~~ which bonds of the district have not been deposited with the United States as provided in 85-7-1906.

(b) The board shall levy against each 40-acre tract or fractional lot, as designated by the United States public government survey, or platted lot, if land is subdivided in lots and blocks (or where land is owned in less than 40-acre tracts or in less than the platted lot, then against each such tract) of land in the district, that portion of the respective total amounts so to be raised which the total irrigable area of any such tract or lot bears to the total irrigable area of the lands in the district, so that each acre of irrigable land in the district ~~shall~~ must be assessed and required to pay the same amount as every other acre of irrigable land therein, unless otherwise specifically provided by the board. The board of commissioners may ~~make a~~ charge of \$5 to \$25 against each separately owned tract of land, regardless of its size.

1 (c) Indebtedness under subsection (1) includes debt
 2 incurred under any contract between the district and the
 3 United States but excludes any indebtedness incurred by the
 4 district on behalf of a subdistrict.

5 (2) (a) On or before the second Monday in July each
 6 year, the board of commissioners of each irrigation district
 7 organized under parts 1 and 15 for which a subdistrict has
 8 been created pursuant to [section 4] shall determine the
 9 total amount to be raised that year for interest and
 10 principal payments on the outstanding bonded or other
 11 indebtedness of the district incurred on behalf of the
 12 subdistrict.

13 (b) The board shall levy against each 40-acre tract or
 14 fractional lot, as designated by United States government
 15 survey, or platted lot if land is subdivided in lots and
 16 blocks (or where land is owned in less than 40-acre tracts
 17 or in less than the platted lot, against each tract) in the
 18 subdistrict, the portion of the total amount to be raised
 19 apportioned according to the ratio of the total irrigable
 20 area of the tract or lot to the total irrigable area of the
 21 lands in the subdistrict, so that each acre of irrigable
 22 land in the subdistrict is assessed and required to pay the
 23 same amount as every other acre of irrigable land in the
 24 subdistrict, unless otherwise specifically provided by the
 25 board. The board may charge \$5 to \$25 against each

1 separately owned tract or lot of land, regardless of its
 2 size.

3 (3) In the event that the ownership of any such
 4 40-acre tract or other subdivision of land in the district
 5 shall--be or subdistrict is divided after a special tax or
 6 assessment against the same land has been levied, each or
 7 either of the owners of such a tract or subdivisions--shall
 8 be subdivision is entitled to have such the special tax or
 9 assessment equitably apportioned to and against said the
 10 divisions of such the tract or subdivisions subdivision, so
 11 that each owner shall-be is enabled to pay such a special
 12 tax or assessment against his portion of such the tract or
 13 subdivision and have the same land discharged from the lien
 14 thereof. In no event shall the charge against any separately
 15 owned tract of land be less than \$5."

16 **Section 25.** Section 85-7-2107, MCA, is amended to
 17 read:

18 **"85-7-2107.** Procedure for the determination of
 19 irrigable area. (1) For the purpose of determining the
 20 number of acres of irrigable lands in each 40-acre tract or
 21 fractional lot as designated by the United States public
 22 government survey or platted lot, if land is subdivided in
 23 lots and blocks (or whenever land is owned in less than
 24 40-acre tracts or in less than the platted lot, then in each
 25 such tract) of land in the district or subdistrict, the

1 board of commissioners of any irrigation district
 2 established under part 1, whenever considered advisable and
 3 at any time except as otherwise provided, may cause a
 4 careful topographical survey and map of the lands to be
 5 made, as well as a specific examination of the character of
 6 the soil of each tract. Upon completion of the survey and
 7 maps and examination, the board shall give notice that at a
 8 meeting of the board, to be held at the office of the board
 9 on a day to be fixed in the notice, the board will determine
 10 the irrigable area of each tract of land in the district or
 11 subdistrict and that it will hear and consider any objection
 12 on the part of any landowner in the district, or in a
 13 subdistrict if only the irrigable area of the subdistrict is
 14 being determined, to the determination and to adjustment of
 15 the irrigable area of the district or subdistrict or of any
 16 lands within any tract or subdivision thereof of the
 17 district or subdistrict. It is not necessary to describe the
 18 tracts in the notice. The notice shall must be given by
 19 publication once a week for 2 successive calendar weeks in a
 20 newspaper of general circulation in the county where the
 21 office of the board is located, and whenever lands of any
 22 irrigation district or subdistrict lie in more than one
 23 county, the notice shall must also be published in a
 24 newspaper or newspapers of general circulation in each
 25 county. The last publication of the notice shall must be at

1 least 5 days prior to the date fixed for the meeting.

2 (2) At the meeting, the board shall ~~proceed---~~to
 3 determine and fix the number of acres in each tract or
 4 subdivision irrigable from the works or proposed works of
 5 the district or subdistrict and shall hear all persons
 6 interested who may appear and shall continue in session from
 7 day to day (exclusive of Sundays and legal holidays) as long
 8 as may be necessary and until the determination of irrigable
 9 area is completed. The board shall hear and receive all
 10 evidence offered, including maps and surveys caused to be
 11 prepared by it as well as maps and surveys prepared by any
 12 owner of lands. Upon ~~such~~ determination, the irrigable area
 13 ~~so fixed shall-become-and-thereafter-be~~ is the acreage upon
 14 which any special tax or assessment ~~shall must~~ be levied,
 15 and each irrigable acre shall pay at the same rate as every
 16 other acre of irrigable land in the district or subdistrict,
 17 except as otherwise provided by law."

18 **Section 26.** Section 85-7-2108, MCA, is amended to
 19 read:

20 "85-7-2108. Taxes to be lien upon land. Any special
 21 tax or assessment levied for any purpose is a lien upon the
 22 entire 40-acre tract or fractional lot as designated by ~~the~~
 23 United States ~~publie~~ public government survey or platted lot, if
 24 land is subdivided in lots and blocks (or whenever land is
 25 owned in less than 40-acre tracts or in less than the

1 platted lot, then against each such tract) of land in the
2 district or subdistrict of which the irrigable area forms a
3 part, and the lien shall attach to the entire tract as of
4 January 1 in the year in which the special tax or assessment
5 is levied."

6 **Section 27.** Section 85-7-2109, MCA, is amended to
7 read:

8 "85-7-2109. List of all lands in district or
9 subdistrict to be prepared. Upon completing the
10 determination, the board shall fix, by appropriate
11 resolution or order, the total acreage and the irrigable
12 acreage of each tract or subdivision and shall ~~cause--to--be~~
13 prepared prepare a list of all lands in the district, ~~which~~
14 or subdistrict. The list shall must contain an accurate
15 description of each 40-acre tract or fractional lot as
16 designated by the United States public government survey or
17 platted lot, if land is subdivided in lots and blocks (or
18 whenever land is owned in less than 40-acre tracts or in
19 less than the platted lot, then of each such tract) of land
20 in the district or subdistrict, the total acreage and the
21 number of irrigable acres therein as ~~so~~ fixed and
22 determined, and the name of the owner or holder of title or
23 evidence of title ~~thereof~~, ascertained as provided in
24 85-7-101 and 85-7-102. This list, when completed and
25 adopted, ~~shall~~ must be filed in the office of the board of

1 ~~commissioners~~ and shall remain there for public inspection.
2 A certified copy of the resolution and list ~~shall~~ must be
3 filed with the county clerk and recorder of each county in
4 which any portion of the lands in the district is situated.
5 The lands not situated in the county in which ~~such the~~ copy
6 is filed ~~shall~~ must be omitted from the copy."

7 **Section 28.** Section 85-7-2110, MCA, is amended to
8 read:

9 "85-7-2110. Nonirrigable lands not to be taxed. ~~No~~ A
10 special tax or assessment may not be levied against any
11 40-acre tract or fractional lot as designated by the United
12 States public survey or platted lot, if land is subdivided
13 in lots and blocks (or whenever lands are owned in less than
14 40-acre tracts or in less than the platted lot, then against
15 each such tract) found by the board of commissioners to
16 contain no irrigable land, ~~nor may any~~ A lien created after
17 the order of determination may not attach to any ~~such~~
18 nonirrigable tract, nor may the owner or owners of any
19 nonirrigable tract or tracts have any vote or votes in any
20 proceeding or election under the provisions of Chapter 146
21 of the Laws of 1909 or any amendment thereof or act
22 supplementary thereto, after the making of ~~such the~~ order,
23 unless their land or a portion ~~thereof~~ of their land is
24 found by the board to contain an area irrigable from the
25 works or proposed works of the district or subdistrict."

Section 29. Section 85-7-2112, MCA, is amended to read:

"85-7-2112. Confirmation of board actions by district court. (1) Within 60 days after the resolution adopting the list, the board of commissioners may petition the district court for confirmation of ~~their~~ its acts in determining the irrigable area and in refunding or canceling any taxes or assessments. The majority in number and acreage of the holders of title or evidence of title to lands in the district or the majority in number and acreage of the holders of title or evidence of title in the subdistrict if only the irrigable area of the subdistrict is to be reviewed, ascertained determined as provided in 85-7-101 and 85-7-102, may likewise within ~~such~~ the 60-day period petition the district court for review of the actions of the board ~~of--commissioners~~. However, one of these proceedings, if prosecuted to determination, is exclusive of the other. ~~Upon such proceeding, the~~ The court may order any assessment of taxes upon any land or lands to be reduced or raised according to the irrigable area as found by the court or taxes previously levied upon any area shown to be excessive to be refunded or canceled.

(2) The provisions of 85-7-1808 through 85-7-1810 regarding the procedure as well as the right and time to appeal apply to any proceeding instituted pursuant to this

section, provided nothing in this section affects or impairs the lien of any bonds issued by the district. If confirmation proceedings are held and a certified copy of the order of confirmation is filed with the county clerk and recorder of the county in which any portion of the lands is situated, it is not necessary to file in the office the certified copy of the resolution and order of the board or of the list provided for in this section."

Section 30. Section 85-7-2114, MCA, is amended to read:

"85-7-2114. Apportionment of costs when bonds issued. (1) Whenever a petition for the issuance of bonds of any irrigation district established under the provisions of part 1 has been filed as provided in 85-7-2012 through 85-7-2015, the board of commissioners of the district shall examine or cause to be examined each 40-acre tract or fractional lot as designated by the United States public survey or platted lot, if land is subdivided in lots and blocks (or whenever land is owned in less than 40-acre tracts or in less than the platted lot, ~~then~~ each such tract) of land in the district or of land in a subdistrict if the bonds are to be issued on behalf of the subdistrict, and cause a careful topographical survey and map to be made in the manner provided for in 85-7-2107. Upon ~~such~~ the examination, the board shall determine the number of irrigable acres in each

1 ~~such~~ tract and shall apportion and distribute the cost of
 2 the works or improvements for which the bonds are to be
 3 issued over the tracts within the district or subdistrict
 4 according to the irrigable area in each of the tracts or
 5 subdivisions, so that each ~~such~~ irrigable acre is required
 6 to bear the same burden of such costs as each other
 7 irrigable acre in the district or subdistrict, except as
 8 otherwise provided by law. The special tax or assessment
 9 levied to meet the principal of and interest on the bonds ~~so~~
 10 ~~authorized~~ is a lien upon the entire tract of which ~~such the~~
 11 irrigable area forms a part or portion as of January 1 of
 12 the year in which the special tax or assessment is levied,
 13 and the number of irrigable acres in each ~~such~~ tract ~~as so~~
 14 determined may not be diminished but may be increased during
 15 the term for which ~~any-such the~~ bonds are issued or until
 16 the bonds are liquidated in full.

17 (2) Whenever a proceeding for the determination, in
 18 whole or in part, of the irrigable area of the lands in the
 19 district or subdistrict has already been had or a
 20 topographical survey or maps thereof prepared or a court
 21 confirmation of prior proceedings had, in part or in full,
 22 the board may, in its discretion, adopt all or ~~such~~ portions
 23 of the prior proceedings and need not cause an additional
 24 survey or maps or examination of any of ~~such the~~ tracts to
 25 be made or redetermine the irrigable area of any ~~such~~ tract.

1 (3) The board shall make ~~such the~~ determination after
 2 the hearing and shall fix the total acreage and the
 3 irrigable acreage and shall ~~cause prepare~~ a list of ~~such the~~
 4 irrigable area ~~to-be-made-and--filed for filing~~, and the
 5 proceedings of the board in connection with ~~such the~~
 6 determination, including the hearing and notice of the
 7 hearing and order or resolution fixing the irrigable area
 8 and the preparation and filing of the list, shall conform to
 9 the requirements set forth in 85-7-2107 through 85-7-2113.
 10 At the hearing, the board shall also determine the amount
 11 and rate per acre necessary to be levied against each
 12 irrigable acre in the district to meet the interest on and
 13 principal of the authorized bond issue. ~~and--any~~ The tax
 14 levied ~~for-such-purposes~~ is a lien upon the entire tract of
 15 which the irrigable area forms a part. If any landowner in
 16 the district or subdistrict appears before the board at that
 17 time and pays in cash the amount fixed against his land as
 18 its proportion of the amount found necessary for the
 19 purposes for which the bonds were authorized and are to be
 20 issued, his land ~~shall~~ must be excluded from the lien of the
 21 bond issue and the amount of bonds intended to be issued
 22 shall be reduced by the amount of ~~such the~~ payment. Any
 23 person interested who fails to appear before the board at
 24 the meeting may not thereafter ~~be-permitted-to~~ contest the
 25 proceedings of the board or any part thereof, except upon

1 special application to the court in the proceedings for the
2 confirmation of the bonds and a showing of reasonable excuse
3 for failure to appear before the board of commissioners."

4 **Section 31.** Section 85-7-2115, MCA, is amended to
5 read:

6 "85-7-2115. Objection by landowner. In case any such
7 landowner makes objection to the proceedings of the board in
8 determining the irrigable area in his own or any other tract
9 of land or the amount or rate per acre of the special tax
10 and assessment to be levied against each irrigable acre in
11 the district or subdistrict for the purposes of the proposed
12 bond issue and the objection is overruled by the board, the
13 objection without further proceedings shall must be regarded
14 as appealed to the district court and shall, with the other
15 proceedings of the board at the meeting, be heard at the
16 proceedings to confirm the bonds, as provided in 85-7-2016
17 through 85-7-2018, and when so confirmed, the order
18 overruling such the objection and confirming the order of
19 the board determining the irrigable area of each tract of
20 land and apportioning the cost of the improvement thereto to
21 each tract shall become final, binding, and conclusive upon
22 the landowner and upon the district, unless appealed from as
23 provided in 85-7-2018."

24 **Section 32.** Section 85-7-2116, MCA, is amended to
25 read:

1 "85-7-2116. Restrictions on reduction of taxable
2 acreage. Whenever the irrigable area of the lands in any
3 irrigation district or subdistrict has been determined and
4 confirmed, no owner or holder of title or evidence of title
5 to lands in the district or subdistrict, during the period
6 when any bonds ~~thereafter~~ authorized are issued and
7 outstanding, may have the taxable acreage of his lands fixed
8 or adjudicated in the manner provided by 85-7-1841 through
9 85-7-1845 in such a manner or to such an extent as to reduce
10 the acreage subject to the payment of the bonds or interest
11 ~~thereon~~ or in such a manner as to affect the security of the
12 bonds or interest ~~thereon~~ on the bonds."

13 NEW SECTION. **Section 33.** Codification instruction.
14 [Sections 1 through 7] are intended to be codified as an
15 integral part of Title 85, chapter 7, and the provisions of
16 Title 85, chapter 7, apply to [sections 1 through 7].

17 NEW SECTION. **Section 34.** Saving clause. [This act]
18 does not affect rights and duties that matured, penalties
19 that were incurred, or proceedings that were begun before
20 [the effective date of this act].

21 NEW SECTION. **Section 35.** Severability. If a part of
22 [this act] is invalid, all valid parts that are severable
23 from the invalid part remain in effect. If a part of [this
24 act] is invalid in one or more of its applications, the part
25 remains in effect in all valid applications that are

1 severable from the invalid application.

2 NEW SECTION. **Section 36.** **Effective date.** [This act]

3 is effective on passage and approval.

-End-

1 HOUSE BILL NO. 650

2 INTRODUCED BY SWYSGOOD

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE BOARD
5 OF COMMISSIONERS OF AN IRRIGATION DISTRICT TO CREATE A
6 SUBDISTRICT WITHIN THE DISTRICT; PROVIDING FOR THE
7 CONSTRUCTION OF IRRIGATION IMPROVEMENTS WITHIN A SUBDISTRICT
8 AND FOR THE ISSUANCE OF BONDS TO FINANCE THE IMPROVEMENTS;
9 ALLOWING THE PRIVATE SALE OF BONDS OF IRRIGATION DISTRICTS
10 TO CERTAIN GOVERNMENTAL ENTITIES; CLARIFYING THAT BONDS OF
11 IRRIGATION DISTRICTS ISSUED TO THE STATE OF MONTANA AND ITS
12 AGENCIES AND DEPARTMENTS DO NOT CONSTITUTE INDEBTEDNESS;
13 ALLOWING SPECIAL ASSESSMENTS OR LEVIES ON PROPERTY OWNERS
14 WITHIN A SUBDISTRICT; AND REVISING OTHER PROVISIONS RELATING
15 TO IRRIGATION DISTRICTS TO ALLOW FOR SUBDISTRICTS; AMENDING
16 SECTIONS 85-7-1904, 85-7-1907, 85-7-1908, 85-7-1910,
17 85-7-1911, 85-7-1921, 85-7-2001, 85-7-2012 THROUGH
18 85-7-2014, 85-7-2019, 85-7-2021, 85-7-2023, 85-7-2101
19 THROUGH 85-7-2104, 85-7-2107 THROUGH 85-7-2110, 85-7-2112,
20 AND 85-7-2114 THROUGH 85-7-2116, MCA; AND PROVIDING AN
21 IMMEDIATE EFFECTIVE DATE."

There is no change on HB 650 and will not
be reprinted. Please refer to second reading
(yellow) for complete text.

22
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

24 NEW SECTION. Section 1. Authority to create
25 subdistricts -- petition -- requirements. (1) The board of



1 HOUSE BILL NO. 650

2 INTRODUCED BY SWYSGOOD

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE BOARD
5 OF COMMISSIONERS OF AN IRRIGATION DISTRICT TO CREATE A
6 SUBDISTRICT WITHIN THE DISTRICT; PROVIDING FOR THE
7 CONSTRUCTION OF IRRIGATION IMPROVEMENTS WITHIN A SUBDISTRICT
8 AND FOR THE ISSUANCE OF BONDS TO FINANCE THE IMPROVEMENTS;
9 ALLOWING THE PRIVATE SALE OF BONDS OF IRRIGATION DISTRICTS
10 TO CERTAIN GOVERNMENTAL ENTITIES; CLARIFYING THAT BONDS OF
11 IRRIGATION DISTRICTS ISSUED TO THE STATE OF MONTANA AND ITS
12 AGENCIES AND DEPARTMENTS DO NOT CONSTITUTE INDEBTEDNESS;
13 ALLOWING SPECIAL ASSESSMENTS OR LEVIES ON PROPERTY OWNERS
14 WITHIN A SUBDISTRICT; AND REVISING OTHER PROVISIONS RELATING
15 TO IRRIGATION DISTRICTS TO ALLOW FOR SUBDISTRICTS; AMENDING
16 SECTIONS 85-7-1904, 85-7-1907, 85-7-1908, 85-7-1910,
17 85-7-1911, 85-7-1921, 85-7-2001, 85-7-2012 THROUGH
18 85-7-2014, 85-7-2019, 85-7-2021, 85-7-2023, 85-7-2101
19 THROUGH 85-7-2104, 85-7-2107 THROUGH 85-7-2110, 85-7-2112,
20 AND 85-7-2114 THROUGH 85-7-2116, MCA; AND PROVIDING AN
21 IMMEDIATE EFFECTIVE DATE."

22
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

24 NEW SECTION. Section 1. Authority to create
25 subdistricts -- petition -- requirements. (1) The board of

1 commissioners of an irrigation district created and
2 organized under Title 85, chapter 7, parts 1 and 15, may
3 establish one or more subdistricts within the irrigation
4 district to provide for and finance the cost of irrigation
5 works, including gravity irrigation systems, gravity measure
6 systems, or sprinkling systems, that would irrigate lands in
7 the subdistrict but not other lands in the district. A
8 subdistrict may be established only upon a petition signed
9 by at least 60%, in number and acreage, of the holders of
10 title or evidence of title to lands to be included within
11 the subdistrict. The petition must be addressed to and filed
12 with the board of commissioners and be accompanied by a map
13 or plat of the proposed subdistrict.

14 (2) The petition must state:

15 (a) the name suggested for the proposed subdistrict;

16 (b) a general description of the land to be included
17 in the proposed subdistrict;

18 (c) the name of each holder of title or evidence of
19 title to the lands in the proposed subdistrict, as
20 determined according to 85-7-101 and 85-7-102 and, if a
21 holder is a nonresident of the county or counties in which
22 the proposed district lies, the post-office address of the
23 nonresident owner, if known;

24 (d) the general water source from which the land in
25 the proposed subdistrict will be irrigated and the general



1 character of the works, water rights, canals, and other
2 property proposed to be acquired or constructed for
3 irrigation purposes in or for the benefit of the proposed
4 subdistrict; and

5 (e) a request that the land within the proposed
6 subdistrict be made a subdistrict according to the
7 provisions of [sections 1 through 4].

8 **NEW SECTION. Section 2. Notice of hearing on petition**
9 **to create subdistrict.** (1) Upon the filing of a petition to
10 create a subdistrict, the board of commissioners of the
11 irrigation district shall by order fix the time and place
12 for a hearing on the petition and shall direct that notice
13 of the hearing be given.

14 (2) The notice of the hearing must state:

15 (a) the name of the proposed subdistrict and its
16 purpose;

17 (b) the time and place of the hearing;

18 (c) a general description of the land proposed to be
19 included in the subdistrict;

20 (d) a general description of the water source; and

21 (e) the general character of the works, water rights,
22 canals, and other property proposed to be acquired or
23 constructed in or for the benefit of the subdistrict.

24 (3) The board shall publish notice of the hearing at
25 least once a week for 2 successive weeks in a newspaper

1 published in each county in which the proposed subdistrict
2 is located. The first publication must occur not less than
3 15 days before the date of the hearing.

4 (4) Notice of the hearing must also be mailed not less
5 than 15 days before the date of the hearing to each holder
6 of title or evidence of title to land within the proposed
7 subdistrict. However, a defect in the notice or failure to
8 give mailed notice does not affect the validity of the
9 proceeding for the creation of a subdistrict under [sections
10 1 through 4].

11 **NEW SECTION. Section 3. Hearing on petition to create**
12 **subdistrict.** (1) The board of commissioners shall hear the
13 petition at the time specified in the notice provided under
14 [section 2]. The board may adjourn the hearing for lack of
15 sufficient notice or other good cause. The hearing must be
16 completed within 3 weeks of the initial hearing.

17 (2) Upon application of the petitioners or any
18 interested person or persons, the board shall allow the
19 petition to be amended and may order that additional notice
20 be given.

21 (3) At the hearing, any person whose land or property
22 rights may be damaged or benefited by the creation of the
23 subdistrict or by the irrigation works or improvements to be
24 acquired or constructed in or for the benefit of the
25 subdistrict may appear and submit oral or written testimony.

NEW SECTION. Section 4. Review of petition --

creation of irrigation subdistrict. (1) After the hearing on the creation of the proposed subdistrict, the board of commissioners shall by resolution create the subdistrict if it finds that:

(a) the petition substantially complies with the provisions of [section 1]; and

(b) it is in the best interests of the holders of title or evidence of title in the subdistrict and the district to establish the subdistrict.

(2) The board shall describe in the resolution the land to be included in the subdistrict. The land does not need to be contiguous but must be located within the district.

(3) In creating the subdistrict proposed by the petition, the board may alter the geographic area of the subdistrict or the scope or type of irrigation improvements to be undertaken in or for the benefit of the subdistrict, subject to the following conditions:

(a) The board may not include within the subdistrict land not identified by the petition as part of the proposed subdistrict unless notice and hearing on the addition are provided according to [sections 2 and 3].

(b) The board may not exclude land from the proposed subdistrict if:

(i) the land can be irrigated from the same general source and by the same general system of works proposed for other land in the subdistrict; and

(ii) the owner or owners of the land file a written statement with the board requesting that the land be included in the subdistrict.

(c) The board shall exclude land from the proposed subdistrict if it determines that:

(i) the land will not benefit from irrigation obtained from the works of the proposed subdistrict; or

(ii) the land has appurtenant water rights or can be irrigated from sources more feasible than the proposed subdistrict and the owner or owners of the land have not filed a written statement with the board consenting to inclusion of the land in the subdistrict.

(4) For purposes of including or excluding land from a proposed subdistrict, the board of commissioners may subdivide any tract into 40-acre or smaller parcels.

(5) The creation of a subdistrict by the board of commissioners is conclusive on all owners of land within the subdistrict unless, within 30 days after adoption by the board of the resolution establishing the subdistrict, a holder of title or evidence of title to land within the subdistrict petitions the district court of the county in which the greater portion of the proposed subdistrict is

located, for review of the creation of the subdistrict. Upon the timely filing of a petition for review of the creation of the subdistrict, the district court shall conduct a hearing and shall issue a decision in substantially the same manner required for review of a petition for an irrigation district under 85-7-105 through 85-7-108. The district court shall base its decision on whether the requirements of [sections 1 through 3] and subsections 1 through 4 of this section have been met.

(6) A proceeding initiated in the district court for review of the validity of the bond issue or issues to finance the irrigation improvements to be undertaken in the subdistrict may be consolidated with a proceeding initiated under this section. Any indebtedness or liability incurred by the board of commissioners of the district with respect to or on behalf of a subdistrict, including bonds issued by the district, may not constitute a charge or lien on any land in the district except the land within the subdistrict.

NEW SECTION. Section 5. Alteration and determination of subdistrict acreage. (1) Land may be deleted from or added to the subdistrict in the same manner provided for irrigation districts in 85-7-1801 through 85-7-1810.

(2) Land in a subdistrict that is deleted from an irrigation district remains in the subdistrict unless it is specifically deleted from the subdistrict according to

subsection (1).

(3) The taxable area of the land in the subdistrict may be determined in the manner provided in 85-7-1841 through 85-7-1845.

NEW SECTION. Section 6. Dissolution of subdistrict.

A subdistrict created under [section 4] may be dissolved by order of the district court of the county in which the greatest portion of lands of the subdistrict are located, in the manner provided for dissolution of irrigation districts in Title 85, chapter 7, part 10.

NEW SECTION. Section 7. Private sale of bonds to certain governmental entities. The district may sell bonds issued under Title 85, chapter 7, part 20, to the United States, the state of Montana, or any agency, department, or instrumentality of these governments by negotiation and without public advertisement or solicitation of bids.

Section 8. Section 85-7-1904, MCA, is amended to read:

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

- (a) appropriate water in the name of the district;
- (b) acquire, by purchase, lease, or contract, water and water rights; additional waters and supplies of water; canals, reservoirs, dams, and other works already constructed or in the course of construction; and
- (c) acquire by purchase, lease, contract,

condemnation, or other legal means:

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

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

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

(3) ~~No A~~ purchase, lease, or contract for purchase of any water, water rights, canals, reservoirs, reservoir sites, dam sites, irrigation works, or other property of any nature or kind or for the making or purchasing of surveys, maps, plans, estimates, and specifications or for the purchase of machinery for pumping plants or for the erection of buildings, aqueducts, and other structures necessarily used in connection with such pumping plants, for a price or rental in excess of \$150,000 or 25% of the district's annual operation and maintenance budget, whichever is greater, ~~is final--or--binding upon the district, and no sum may be paid for such purchase, lease, or contract~~ may not be entered into by the district without the written consent or petition

of at least a majority in number and acreage of the holders of title or evidence of title to the lands within the district or, if the purchase, lease, or contract substantially benefits a subdistrict in the district, by a majority in number and acreage of the holders of title or evidence of title to lands within the subdistrict. Any splitting or division of such a purchase, lease, or contract with the purpose or intention of avoiding or circumventing the provisions of this section ~~shall render such~~ renders the divided or split contract or contracts void."

Section 9. Section 85-7-1907, MCA, is amended to read:

"85-7-1907. Board power to provide sufficient water. ~~Said~~ The board may also construct and maintain the necessary dams, reservoirs, and works for the collection and distribution of water for the district or any subdistrict in the district, from one or more sources and from different and additional sources; operate such works; secure, in any of the manners provided in this chapter, additional water supplies from the same or different sources; and do any and every lawful act necessary to be done in order that sufficient water may be furnished for irrigation purposes to all the lands in the district or subdistrict included at the time of its organization or at any time thereafter."

Section 10. Section 85-7-1908, MCA, is amended to

read:

1 "85-7-1908. Board powers over district property. (1)
2 The board ~~is--hereby--authorized-and-empowered-to~~ may take
3 conveyances or other assurances for all property acquired by
4 it under the provisions of this chapter, in the name of the
5 district, to and for the uses and purposes ~~herein-expressed~~
6 in this chapter.

7 (2) The legal title to all property acquired by or for
8 any irrigation district or any subdistrict in the district
9 under the provisions of this chapter shall immediately and
10 by operation of law vest in ~~such that~~ district, as set forth
11 in this chapter. The board of commissioners ~~is--hereby~~
12 ~~authorized---and--empowered--to~~ may hold, use, maintain,
13 acquire, manage, occupy, and possess ~~said that~~ property, as
14 herein provided in this chapter. Any property so acquired by
15 the district may be conveyed to the United States ~~insofar-as~~
16 ~~the--same-may-be-needed~~ for the construction, operation, and
17 maintenance of works by the United States for the benefit of
18 the district or a subdistrict in the district under any
19 contract that may be entered into with the United States
20 pursuant to this chapter."

21 Section 11. Section 85-7-1910, MCA, is amended to
22 read:

23 "85-7-1910. Board power to dispose of district
24 property. (1) The board of commissioners ~~shall--have--the~~
25 power may, with the written consent of a majority in number

1 and acreage of the owners of the lands in the district or,
2 if the leased property substantially benefits a subdistrict
3 in the district, of a majority in number and acreage of the
4 owners of lands within the subdistrict, to lease in whole or
5 in part the system of canals and works or water belonging to
6 the district, whenever ~~such the~~ leasing ~~may-be-deemed is~~
7 considered for the benefit of the district or subdistrict,
8 if the leased property substantially benefits the
9 subdistrict. When ~~said the~~ board contemplates the leasing
10 of the canals or works or water of such a district or
11 subdistrict, it shall so declare the availability of the
12 lease by resolution or order and give notice thereof by
13 ~~publishing-the-same~~ publication in some newspaper published
14 in the county in which the office of such that irrigation
15 district is situated at least 2 calendar weeks prior to the
16 making of any lease. ~~No-such A~~ lease ~~shall may not~~ be made
17 unless a majority in number and acreage of the holders of
18 title or evidence of title to the lands in the district
19 ~~shall or,~~ if the lease substantially benefits a subdistrict,
20 a majority in number and acreage of the holders of title or
21 evidence of title to lands within the subdistrict, file with
22 the board a written consent to make such the lease. Such
23 The lease shall-in-no-way may not interfere with any rights
24 that ~~may~~ have been established by law at the time such the
25 lease is made, nor ~~shall-such may the~~ lease operate ~~so-as to~~

1 deprive any owner or owners of land in such the district of
 2 the use of water from such works upon such the lands. The
 3 board of commissioners shall require a good and sufficient
 4 bond to secure the faithful performance of the lease by the
 5 lessee.

6 (2) In addition to all other powers heretofore granted
 7 any irrigation district existing under the laws of Montana,
 8 for the purpose of securing financial aid in any form from
 9 the department of natural resources and conservation, an
 10 irrigation district may convey, assign, transfer, and set
 11 over to the department all or any part of its property,
 12 including all water rights, rights-of-way, and easements for
 13 reservoirs, reservoir sites, canals, ditches, laterals, and
 14 headgates, as may be required by the department as a
 15 condition to furnishing such financial aid or assistance.

16 (3) If any an irrigation district has ceased
 17 operation, such the district prior to its dissolution ~~shall~~
 18 ~~be-authorized-and-empowered-to~~ may convey, assign, transfer,
 19 and set over to any person or association of persons all or
 20 any part of its property enumerated described in subsection
 21 (2), for the purpose of irrigating and reclaiming any or all
 22 other land which can be served and irrigated therefrom."

23 **Section 12.** Section 85-7-1911, MCA, is amended to
 24 read:

25 "85-7-1911. Apportionment of water by board. (1) The

1 board of commissioners shall apportion the water for
 2 irrigation among the lands in the district or a subdistrict
 3 in the district in a just and equitable manner, and the
 4 maximum amount apportioned to any land shall be the amount
 5 that can be beneficially used on said the land, ~~and-such~~
 6 ~~The~~ amount of water ~~shall-become-and-shall-be~~ is appurtenant
 7 to the land and inseparable from ~~the-same~~ it but subject to
 8 reduction as hereinafter provided in this chapter.

9 (2) In the event of a shortage of water, the amount of
 10 water delivered to each particular tract or piece of land
 11 shall be reduced proportionately.

12 (3) All surplus water belonging to the district may be
 13 sold or disposed of by the board for the benefit of the
 14 district or for the benefit of a subdistrict if the surplus
 15 water is derived from water that attaches to the substantial
 16 benefit of the subdistrict.

17 (4) All water, the right to the use of which is
 18 acquired by the district under any contract with the United
 19 States, shall be distributed and apportioned by the district
 20 in accordance with the acts of congress, the rules and
 21 regulations of the secretary of the interior, and the
 22 provisions of said the contract ~~in-relation-thereto~~."

23 **Section 13.** Section 85-7-1921, MCA, is amended to
 24 read:

25 "85-7-1921. Distribution system defined. The words

"distribution system", as used in 85-7-1922 through 85-7-1925, ~~shall--denote~~ denotes the entire works and property of all irrigation districts, including main ditches and canals, laterals, bilaterals, headgates, flumes, spillways, boxes, and all other appliances and means by which the waters of any irrigation district, including a subdistrict in the district, are or shall be apportioned or distributed for use."

Section 14. Section 85-7-2001, MCA, is amended to read:

"85-7-2001. Limitations on debt-incurring power. (1) The board of commissioners or other officers of the district may not incur any debt or liability, either by issuing bonds or otherwise, except as provided in this chapter.

(2) No An irrigation district may not become indebted, in any manner or for any purpose in any one year, in an amount exceeding 18.75% of the assessed valuation of the district, except as provided in subsection (2) (4).

(3) An irrigation district may not incur indebtedness, in any manner or for any purpose in any one year, on behalf of any subdistrict in the district in an amount exceeding 18.75% of the assessed valuation of the subdistrict, except as provided in subsection (4).

~~(2)(4)~~ (a) For the purpose of organization; for any of the immediate purposes of this chapter; to make or purchase

surveys, plans, and specifications; for stream gauging and gathering data; or to make any repairs occasioned by any calamity or other unforeseen contingency, the board of commissioners may, in any one year, incur the indebtedness of as many dollars as there are acres in the district and may cause issue warrants of the district ~~to-issue-therefor~~.

(b) For the purpose of organization, for any of the immediate purposes of this chapter, or to meet the expenses occasioned by any calamity or other unforeseen contingency, the board of commissioners may, in any one year, incur (in addition to the 18.75% ~~limitation~~ LIMITATIONS of ~~subsection (1) SUBSECTIONS (2) AND (3)~~) an additional indebtedness not exceeding 12.5% of the assessed valuation of the district and may cause issue warrants of the district ~~to-issue~~ therefor.

(c) The ~~limitation~~ LIMITATIONS of ~~subsection-(1)--does~~ SUBSECTIONS (1) THROUGH (3) DO not apply to warrants issued for unpaid interest on the valid bonds of any irrigation district.

(d) The ~~limitation~~ LIMITATIONS of ~~subsection-(1)--does~~ SUBSECTIONS (1) THROUGH (3) DO not apply to any bonds or obligations issued to the state of Montana, the United States, or any department, agency, or instrumentality of these governments if the bonds or obligations are issued:

(i) pursuant to a loan program specifically authorized

1 by the legislature; or
 2 (ii) to finance in whole or in part a project
 3 authorized by the legislature.

4 (e) The limitation LIMITATIONS of subsection (1) does
 5 SUBSECTIONS (1) THROUGH (3) DO not apply to any bonds issued
 6 under this chapter pursuant to a provision which that
 7 expressly supersedes the limitation.

8 (3)(5) Any debt or liability incurred in excess of the
 9 limitations provided by the irrigation district laws is
 10 void.

11 (4)--The limitation of subsection (1) does not apply to
 12 state--or federal bonds used for a project authorized by the
 13 legislature--"

14 **Section 15.** Section 85-7-2012, MCA, is amended to
 15 read:

16 "85-7-2012. Purposes for which bonds may be issued.
 17 The board of commissioners of a district established under
 18 the provisions of Title 85, chapter 7, part 1, may authorize
 19 and issue negotiable fully registered bonds or negotiable
 20 coupon bonds for of the district for the purpose of
 21 providing the necessary funds for:

22 (1) constructing the necessary irrigation canals and
 23 works, including drainage works, and constructing works for
 24 the generation and distribution of electricity within the
 25 district and for acquiring the property and rights necessary

1 therefor;

2 (2) acquiring, by purchase or otherwise, waters, water
 3 rights, canals, reservoirs, reservoir sites, irrigation
 4 works, drainage works, and works for the generation and
 5 distribution of electricity, whether such the works are
 6 constructed or partially constructed;

7 (3) meeting the expense expenses incurred incident to
 8 the construction or acquisition of such the works and
 9 property, including administrative, engineering, and legal
 10 expenses;

11 (4) assuming, as principal or guarantor, indebtedness
 12 to the United States on account of district lands;

13 (5) providing a sufficient amount of money to pay the
 14 interest on all negotiable-coupon bonds of the district for
 15 a period not exceeding 5 years;

16 (6) redeeming or paying all or any portion of the
 17 existing indebtedness of the district, evidenced by
 18 outstanding bonds; delinquent interest coupons, overdue
 19 claims for interest, and accrued interest; or warrants,
 20 together with all delinquent and accrued interest, whether
 21 such the indebtedness has or may hereafter become payable at
 22 the option of the district, by consent of the bondholders,
 23 or by any other lawful means; or

24 (7) establishing a reserve for the payment of
 25 principal and interest on bonds of the district in an amount

determined by the board to be reasonably required to market the bonds; or

††(8) otherwise carrying out the provisions of the irrigation district laws."

Section 16. Section 85-7-2013, MCA, is amended to read:

"85-7-2013. Petition requirements. (1) No-bonds Bonds provided for in 85-7-2012 through 85-7-2015 may not be authorized or issued by or on behalf of any irrigation district organized hereunder under this chapter or by an irrigation district on behalf of a subdistrict located in the district and no a contract may not be made with the United States as provided in 85-7-1906 except upon a petition signed by:

(a) at least 60%, in number and acreage, of the holders of title or evidence of title to lands included within the district or, if the bonds are issued on behalf of or if the contract relates to a subdistrict, at least 60% in number and acreage of the holders of title or evidence of title to lands within the subdistrict; or by

(b) at least 75%, in number and acreage, of the holders of title or evidence of title to such the lands who are residents of the county or counties in which lands of the district are situated or, if the bonds are issued on behalf of or if the contract relates to a subdistrict, at

least 75% in number and acreage of the holders of title or evidence of title to the lands who are residents of the county or counties in which lands of the subdistrict are situated.

(2) The petition shall must be addressed to the board of commissioners, set forth the aggregate amount of bonds to be issued and the purpose or purposes thereof of the bonds, have attached thereto to it an affidavit verifying the signatures to the petition, and be filed with the secretary of the board ~~of commissioners~~. When bonds are issued for the sole purpose of redeeming or paying the existing and outstanding bonds or warrants, or both, including delinquent and accrued interest, of such the district, such the bonds may be authorized and issued in the manner provided for by 85-7-2019."

Section 17. Section 85-7-2014, MCA, is amended to read:

"85-7-2014. Procedure after petition filed. Upon the filing of the petition, the board of commissioners shall, by appropriate order or resolution, authorize and direct the issuance of the bonds of the district to the amount and for the purpose or purposes specified in the petition; fix the numbers, denominations, and maturity or maturities of the bonds; specify the rate of interest thereon on the bonds and whether payable annually or semiannually; designate the

place and method of payment of the bonds and the interest coupons on the bonds, within or without outside the state of Montana; prescribe the form of the bonds ~~and--interest coupons--to-be-attached-thereto~~; and provide for the levy of a special tax or assessment as provided in this chapter on all the lands in the district or for a levy on a subdistrict if the bonds are issued on behalf of the subdistrict, for the irrigation and benefit of which the district or subdistrict was organized and the bonds are issued or the contract is to be made, sufficient in amount to pay the interest on and principal of the bonds when due and all amounts to be paid to the United States under any contract between the district and the United States; ~~accompanying~~ for which bonds of the district have not been deposited with the United States as provided in 85-7-1906."

Section 18. Section 85-7-2019, MCA, is amended to read:

***85-7-2019. Refunding bonds.** (1) Any irrigation district may issue refunding bonds.

(2) An irrigation district may issue refunding bonds for the purpose of redeeming or paying the indebtedness or any portion thereof of the indebtedness of the district, whether represented by existing and outstanding bonds, interest coupons thereof, or warrants, including accrued and unpaid interest on the bonds, coupons, and warrants, and

whether such the indebtedness is due or not due or has or may become payable at the option of the district, by consent of the bondholders or warrant holders, or by any other legal means and whether such the indebtedness is now existing or may be created, and funds in the treasury of the district are not available for the payment of the ~~same~~ indebtedness. The refunding bonds may be issued in one or more series. The petition for the refunding bonds, must be signed as required by law by at least 60% in number and acreage of the holders of title or evidence of title to the lands included within the district, or by at least 60% in number and acreage of the holders of title or evidence of title to the lands within a subdistrict if the bonds to be refunded were issued by the district on behalf of the subdistrict, and addressed to the board of directors or commissioners of the district. The petition may contain the following specifications, in addition to the matters now otherwise required by law:

(a) how many series of bonds shall be issued; and

(b) the terms, conditions, and liens of the bonds and the terms and conditions upon which each of the series of bonds shall be exchanged for outstanding bonds of the district if the ~~same~~ bonds are to be exchanged and not sold.

(3) The specifications provided for in subsection (2), when set forth in the petition, are controlling upon the board of directors or commissioners. The petitioners shall

1 in the specifications set forth the contract of exchange to
 2 be made, with particularity. The contract may include any
 3 term, requirement, grant, transfer of property or rights,
 4 covenant, or condition considered by the petitioners to be
 5 in the best interest of the district or of the subdistrict
 6 if the bonds that are the subject of the contract were
 7 issued by the district on behalf of the subdistrict. The
 8 petition shall state that the board of directors or
 9 commissioners of the district may authorize and direct the
 10 issuance of bonds according to the specifications of the
 11 petition, make any such contract, and bind the irrigation
 12 district under the contract."

13 **Section 19.** Section 85-7-2021, MCA, is amended to
 14 read:

15 "85-7-2021. Liens of bonds. (1) All bonds issued
 16 hereunder under this chapter and all amounts to be paid to
 17 the United States under any contract between the district
 18 and the United States, accompanying which bonds of the
 19 district have not been deposited with the United States as
 20 provided in 85-7-1906, shall be a lien upon all the lands
 21 originally or at any time included in the district, or upon
 22 lands in a subdistrict if the bonds are issued on behalf of
 23 the subdistrict, for the irrigation and benefit of which
 24 said the irrigation district or subdistrict was organized
 25 and said the bonds were issued and for the benefit of which

1 such contract between the district and the United States was
 2 made, except upon such any lands as may at any time be
 3 included in such the district or subdistrict on account of
 4 the exchange or substitution of water under the provisions
 5 of 85-7-1912--~~if-any-there-be~~; and all such lands ~~shall-be~~
 6 are subject to a special tax or assessment for the payment
 7 of the interest on and principal of ~~said the~~ bonds. All
 8 amounts to be paid to the United States under any such
 9 contract between the district and the United States and ~~said~~
 10 the special tax or assessment ~~shall-constitute~~ constitute a
 11 first and prior lien on the land against which levied to the
 12 same extent and with like force and effect as taxes levied
 13 for state and county purposes.

14 (2) All liens herein created under this section remain
 15 upon the lands ~~for--a-period-of-8-years-after-the-date-of~~
 16 ~~maturity-of-the-obligation--Thereafter, the lands--and--the~~
 17 ~~titles--thereto--shall-be-free-from-any-such-liens until the~~
 18 obligations of the district for the bonds are discharged, as
 19 provided by law or by the resolution of the board of
 20 commissioners authorizing their issuance."

21 **Section 20.** Section 85-7-2023, MCA, is amended to
 22 read:

23 "85-7-2023. Notice of sale of bonds. Before ~~Except as~~
 24 provided in [section 7], before making any sale the board
 25 shall, by resolution at a meeting, declare its intention to

1 sell a specified amount of the bonds and the day and hour
 2 and place of such sale. The board shall cause ~~such~~ the
 3 resolution to be entered in the minutes and notice of the
 4 sale to be given by publication thereof at least once a week
 5 for 3 successive calendar weeks in ~~some~~ a newspaper in the
 6 county where the office of the board of commissioners is
 7 located, and the notice may be published in any other
 8 newspaper ~~within--or--without--the-state~~ at ~~its~~ the board's
 9 discretion. The notice shall state that sealed proposals
 10 will be received by the board at its office, for the
 11 purchase of bonds, until the day and hour named in the
 12 resolution. At the time appointed the board shall open the
 13 proposals and award the purchase of the bonds or any portion
 14 or portions thereof to the highest responsible bidder or
 15 bidders. ~~Said~~ The board may reject any or all bids. In case
 16 no award is made, the board thereafter may either
 17 readvertise ~~said~~ the bonds or any part thereof of the bonds
 18 for sale or sell the ~~same~~ bonds or any part thereof of the
 19 bonds at private sale. Coupons evidencing unearned interest
 20 ~~shall must~~ be detached and canceled."

21 **Section 21.** Section 85-7-2101, MCA, is amended to
 22 read:

23 "85-7-2101. Tax or assessment to pay bonds and
 24 interest. (1) All bonds and the interest thereon issued
 25 hereunder under this chapter and all payments due or to

1 become due to the United States under any contract between
 2 the district and the United States, ~~accompanying~~ for which
 3 the bonds of the district have not been deposited with the
 4 United States as provided in 85-7-1906, ~~shall must~~ be paid
 5 by revenue derived from a special tax or assessment levied
 6 upon all the lands included in the district, or upon all
 7 lands in a subdistrict of the district if the bonds are
 8 issued by the district on behalf of the subdistrict, except
 9 upon those lands that have been included in the district or
 10 subdistrict on account of the exchange or substitution of
 11 water under the provisions of 85-7-1912, if there are any.
 12 All lands in the district, or in a subdistrict if the bonds
 13 are issued on behalf of the subdistrict, at the time the
 14 bonds are issued and all lands subsequently included which
 15 are ~~so~~ chargeable under the provisions of this chapter ~~shall~~
 16 ~~be-and~~ remain liable to be taxed and assessed for the
 17 payment of the bonds and interest and all payments due or to
 18 become due to the United States under any contract between
 19 the district and the United States, ~~accompanying~~ for which
 20 bonds of the district have not been deposited with the
 21 United States as provided in 85-7-1906.

22 (2) The board of commissioners of the district, in the
 23 order or resolution authorizing and directing the issuance
 24 of bonds of the district mentioned in 85-7-2014, shall
 25 provide for the annual levy and collection of a special tax

1 or assessment upon all the lands included in the district,
 2 or in a subdistrict if the bonds are to be issued on behalf
 3 of the subdistrict, and subject to taxation and assessment,
 4 sufficient in amount to meet the interest on the bonds
 5 promptly when and as the same interest accrues and to
 6 discharge the principal thereof of the bonds at their
 7 maturity or respective maturities and to meet all payments
 8 due or to become due to the United States under any contract
 9 between the district and the United States, accompanying for
 10 which bonds of the district have not been deposited with the
 11 United States as provided in 85-7-1906, at the times such
 12 the payments by such the contract become due and payable."

13 **Section 22.** Section 85-7-2102, MCA, is amended to
 14 read:

15 **"85-7-2102. Added lands to pay proportional share of**
 16 **bonded indebtedness. (1) Where a district or subdistrict is**
 17 **extended after the construction of works of irrigation,**
 18 **including drainage works, to include other irrigable lands,**
 19 **such the included lands ~~shall be~~ are chargeable with such**
 20 **the proportion of the bonded indebtedness incurred or**
 21 **authorized to be incurred by any district or subdistrict and**
 22 **such the proportion of the indebtedness incurred under any**
 23 **contract between the district and the United States,**
 24 **accompanying for which bonds of the district have not been**
 25 **deposited with the United States as provided in 85-7-1906,**

1 as the district court shall order, as provided in 85-7-1808
 2 through 85-7-1811 and 85-7-1841 through 85-7-1845. The board
 3 of commissioners of the district shall provide for the levy
 4 of a special tax or assessment against such the included
 5 lands on account of said the bonds and the interest thereon
 6 on the bonds and on account of any payments under any
 7 contracts between the district and the United States,
 8 accompanying for which bonds of the district have not been
 9 deposited with the United States, as provided in 85-7-1906.

10 (2) Said The special tax or assessment shall be levied
 11 and collected as and in the manner as the special tax
 12 assessment against the lands of the original district or
 13 subdistrict on account of the payments under any contract
 14 between the district and the United States, accompanying for
 15 which bonds of the district have not been deposited with the
 16 United States as provided in 85-7-1906, and on account of
 17 which said the bonds and the interest thereon on the bonds
 18 is provided for, levied, and collected. Upon the extending
 19 of any such district or subdistrict, the total of said the
 20 bond indebtedness or indebtedness due to the United States
 21 shall be reapportioned, spread, and equalized upon and over
 22 the entire area thereof, as provided in 85-7-2021."

23 **Section 23.** Section 85-7-2103, MCA, is amended to
 24 read:

25 **"85-7-2103. All irrigable lands chargeable alike. (1)**

1 All irrigable lands in each irrigation district and all
 2 lands in each subdistrict of the district, except such those
 3 lands that are included within the district because of the
 4 exchange or substitution of water under the provisions of
 5 85-7-1912, shall pay at the same rate for all purposes for
 6 which the lands are charged, except as otherwise provided by
 7 law. There may be an administrative charge of \$5 to \$25
 8 against each separately owned tract of land regardless of
 9 its size, as provided in 85-7-2104.

10 (2) Whenever water used for the irrigation of any
 11 lands within an irrigation district or subdistrict is
 12 obtained by pumping to different elevations, the cost of
 13 maintenance, operation, and pumping to each separate
 14 elevation shall be apportioned and levied upon the lands
 15 lying under the ditch or ditches running from that
 16 particular elevation, in such a manner as may be determined
 17 fair and equitable by the board of commissioners after
 18 considering the facts in each case. This apportionment ~~shall~~
 19 must be made by the board of commissioners and included each
 20 year in the assessment provided for by 85-7-2104. The amount
 21 of the assessment for maintenance, operation, and pumping of
 22 water to each separate elevation, whenever there are
 23 different elevations, ~~shall~~ must be determined by the board
 24 ~~of commissioners~~ in such a manner and upon ~~such~~ notice to
 25 the persons interested in the district or subdistrict as the

1 board in its rules may provide.

2 (3) Whenever a contract has been made with the United
 3 States, the lands within the district or of a subdistrict if
 4 the contract substantially benefits the subdistrict, whether
 5 originally included or later annexed to the district or
 6 subdistrict, shall pay in accordance with the federal
 7 reclamation laws and the public notices, orders, and
 8 regulations issued thereunder under the reclamation laws and
 9 in compliance with any contracts made by the United States
 10 with the owners of the lands and in compliance with the
 11 contract between the districts and the United States.

12 (4) Whenever a contract has been made with the state
 13 of Montana, the lands within the district or of a
 14 subdistrict if the contract substantially benefits the
 15 subdistrict, whether originally included or later annexed to
 16 the district or subdistrict, shall pay in accordance with
 17 state laws and public notices and rules issued ~~thereunder~~
 18 under the laws and in compliance with any contract made by
 19 the state with the owners of the lands and in compliance
 20 with the contract between the district and the state.

21 (5) Whenever the works necessary for the completed
 22 project are constructed progressively over a period of years
 23 and whenever a portion of the lands within the district are
 24 or can be irrigated 1 year or more before the completion of
 25 the entire project, those lands so irrigated or that can be

1 so irrigated through the built portion of the project shall
2 pay for the cost of operating that portion of the project
3 serving them with irrigation water and also shall pay such
4 the portion of the interest charges as its irrigable area
5 bears to the irrigable area of the entire project.

6 (6) Whenever lands have appurtenant thereto a partial
7 water right or partial rights in a system of irrigation
8 other than that of the district or subdistrict, the amounts
9 payable shall must be equitably apportioned.

10 (7) Whenever the owners of a portion of the lands
11 within an irrigation district choose to install a gravity
12 system to irrigate those lands, the cost of constructing the
13 gravity system shall must be apportioned among and levied
14 upon the lands irrigated by the gravity system in a manner
15 determined to be equitable by the board. The levy shall must
16 be included each year in the assessment charged under
17 85-7-2104."

18 **Section 24.** Section 85-7-2104, MCA, is amended to
19 read:

20 "85-7-2104. Annual tax levy -- apportionment when
21 tracts divided. (1) (a) On or before the second Monday in
22 July each year, the board of commissioners of each
23 irrigation district organized under parts 1 and 15 shall
24 ascertain:

25 (i) the total amount required to be raised in that

1 year for the general administrative expenses of the
2 district, including the cost of maintenance and repairs;
3 and

4 (ii) the total amount to be raised that year for
5 interest on and principal of the outstanding bonded or other
6 indebtedness of the district, ~~including any indebtedness~~
7 ~~incurred under any contract between the district and the~~
8 ~~United States, accompanying~~ for which bonds of the district
9 have not been deposited with the United States as provided
10 in 85-7-1906.

11 (b) The board shall levy against each 40-acre tract or
12 fractional lot, as designated by the United States public
13 government survey, or platted lot, if land is subdivided in
14 lots and blocks (or where land is owned in less than 40-acre
15 tracts or in less than the platted lot, then against each
16 such tract) of land in the district, that portion of the
17 respective total amounts so to be raised which the total
18 irrigable area of any such tract or lot bears to the total
19 irrigable area of the lands in the district, so that each
20 acre of irrigable land in the district shall must be
21 assessed and required to pay the same amount as every other
22 acre of irrigable land therein, unless otherwise
23 specifically provided by the board. The board of
24 commissioners may make a charge of \$5 to \$25 against each
25 separately owned tract of land, regardless of its size.

1 (c) Indebtedness under subsection (1) includes debt
 2 incurred under any contract between the district and the
 3 United States but excludes any indebtedness incurred by the
 4 district on behalf of a subdistrict.

5 (2) (a) On or before the second Monday in July each
 6 year, the board of commissioners of each irrigation district
 7 organized under parts 1 and 15 for which a subdistrict has
 8 been created pursuant to [section 4] shall determine the
 9 total amount to be raised that year for interest and
 10 principal payments on the outstanding bonded or other
 11 indebtedness of the district incurred on behalf of the
 12 subdistrict.

13 (b) The board shall levy against each 40-acre tract or
 14 fractional lot, as designated by United States government
 15 survey, or platted lot if land is subdivided in lots and
 16 blocks (or where land is owned in less than 40-acre tracts
 17 or in less than the platted lot, against each tract) in the
 18 subdistrict, the portion of the total amount to be raised
 19 apportioned according to the ratio of the total irrigable
 20 area of the tract or lot to the total irrigable area of the
 21 lands in the subdistrict, so that each acre of irrigable
 22 land in the subdistrict is assessed and required to pay the
 23 same amount as every other acre of irrigable land in the
 24 subdistrict, unless otherwise specifically provided by the
 25 board. The board may charge \$5 to \$25 against each

1 separately owned tract or lot of land, regardless of its
 2 size.

3 (3) In the event that the ownership of any such
 4 40-acre tract or other subdivision of land in the district
 5 shall--be or subdistrict is divided after a special tax or
 6 assessment against the same land has been levied, each or
 7 either of the owners of such a tract or subdivisions--shall
 8 be subdivision is entitled to have such the special tax or
 9 assessment equitably apportioned to and against said the
 10 divisions of such the tract or subdivisions subdivision, so
 11 that each owner shall-be is enabled to pay such a special
 12 tax or assessment against his portion of such the tract or
 13 subdivision and have the same land discharged from the lien
 14 thereof. In no event shall the charge against any separately
 15 owned tract of land be less than \$5."

16 **Section 25.** Section 85-7-2107, MCA, is amended to
 17 read:

18 **"85-7-2107. Procedure for the determination of**
 19 **irrigable area. (1) For the purpose of determining the**
 20 **number of acres of irrigable lands in each 40-acre tract or**
 21 **fractional lot as designated by the United States public**
 22 **government survey or platted lot, if land is subdivided in**
 23 **lots and blocks (or whenever land is owned in less than**
 24 **40-acre tracts or in less than the platted lot, then in each**
 25 **such tract) of land in the district or subdistrict, the**

1 board of commissioners of any irrigation district
 2 established under part 1, whenever considered advisable and
 3 at any time except as otherwise provided, may cause a
 4 careful topographical survey and map of the lands to be
 5 made, as well as a specific examination of the character of
 6 the soil of each tract. Upon completion of the survey and
 7 maps and examination, the board shall give notice that at a
 8 meeting of the board, to be held at the office of the board
 9 on a day to be fixed in the notice, the board will determine
 10 the irrigable area of each tract of land in the district or
 11 subdistrict and that it will hear and consider any objection
 12 on the part of any landowner in the district, or in a
 13 subdistrict if only the irrigable area of the subdistrict is
 14 being determined, to the determination and to adjustment of
 15 the irrigable area of the district or subdistrict or of any
 16 lands within any tract or subdivision thereof of the
 17 district or subdistrict. It is not necessary to describe the
 18 tracts in the notice. The notice ~~shall~~ must be given by
 19 publication once a week for 2 successive calendar weeks in a
 20 newspaper of general circulation in the county where the
 21 office of the board is located, and whenever lands of any
 22 irrigation district or subdistrict lie in more than one
 23 county, the notice ~~shall~~ must also be published in a
 24 newspaper or newspapers of general circulation in each
 25 county. The last publication of the notice ~~shall~~ must be at

1 least 5 days prior to the date fixed for the meeting.

2 (2) At the meeting, the board shall ~~proceed--to~~
 3 determine and fix the number of acres in each tract or
 4 subdivision irrigable from the works or proposed works of
 5 the district or subdistrict and shall hear all persons
 6 interested who may appear and shall continue in session from
 7 day to day (exclusive of Sundays and legal holidays) as long
 8 as may be necessary and until the determination of irrigable
 9 area is completed. The board shall hear and receive all
 10 evidence offered, including maps and surveys caused to be
 11 prepared by it as well as maps and surveys prepared by any
 12 owner of lands. Upon such determination, the irrigable area
 13 ~~so fixed shall become and thereafter be~~ is the acreage upon
 14 which any special tax or assessment ~~shall~~ must be levied,
 15 and each irrigable acre shall pay at the same rate as every
 16 other acre of irrigable land in the district or subdistrict,
 17 except as otherwise provided by law."

18 **Section 26.** Section 85-7-2108, MCA, is amended to
 19 read:

20 "85-7-2108. Taxes to be lien upon land. Any special
 21 tax or assessment levied for any purpose is a lien upon the
 22 entire 40-acre tract or fractional lot as designated by the
 23 United States ~~public~~ government survey or platted lot, if
 24 land is subdivided in lots and blocks (or whenever land is
 25 owned in less than 40-acre tracts or in less than the

1 platted lot, then against each such tract) of land in the
 2 district or subdistrict of which the irrigable area forms a
 3 part, and the lien shall attach to the entire tract as of
 4 January 1 in the year in which the special tax or assessment
 5 is levied."

6 **Section 27.** Section 85-7-2109, MCA, is amended to
 7 read:

8 "85-7-2109. List of all lands in district or
 9 subdistrict to be prepared. Upon completing the
 10 determination, the board shall fix, by appropriate
 11 resolution or order, the total acreage and the irrigable
 12 acreage of each tract or subdivision and shall ~~cause--to--be~~
 13 prepared prepare a list of all lands in the district, ~~which~~
 14 or subdistrict. The list shall must contain an accurate
 15 description of each 40-acre tract or fractional lot as
 16 designated by the United States public government survey or
 17 platted lot, if land is subdivided in lots and blocks (or
 18 whenever land is owned in less than 40-acre tracts or in
 19 less than the platted lot, then of each such tract) of land
 20 in the district or subdistrict, the total acreage and the
 21 number of irrigable acres therein as ~~so~~ fixed and
 22 determined, and the name of the owner or holder of title or
 23 evidence of title thereof, ascertained as provided in
 24 85-7-101 and 85-7-102. This list, when completed and
 25 adopted, ~~shall~~ must be filed in the office of the board of

1 ~~commissioners~~ and shall remain there for public inspection.
 2 A certified copy of the resolution and list ~~shall~~ must be
 3 filed with the county clerk and recorder of each county in
 4 which any portion of the lands in the district is situated.
 5 The lands not situated in the county in which ~~such the~~ copy
 6 is filed ~~shall~~ must be omitted from the copy."

7 **Section 28.** Section 85-7-2110, MCA, is amended to
 8 read:

9 "85-7-2110. Nonirrigable lands not to be taxed. No A
 10 special tax or assessment may not be levied against any
 11 40-acre tract or fractional lot as designated by the United
 12 States public survey or platted lot, if land is subdivided
 13 in lots and blocks (or whenever lands are owned in less than
 14 40-acre tracts or in less than the platted lot, then against
 15 each such tract) found by the board of commissioners to
 16 contain no irrigable land, ~~nor may any~~ A lien created after
 17 the order of determination may not attach to any ~~such~~
 18 nonirrigable tract, nor may the owner or owners of any
 19 nonirrigable tract or tracts have any vote or votes in any
 20 proceeding or election under the provisions of Chapter 146
 21 of the Laws of 1909 or any amendment thereof or act
 22 supplementary thereto, after the making of ~~such the~~ order,
 23 unless their land or a portion thereof of their land is
 24 found by the board to contain an area irrigable from the
 25 works or proposed works of the district or subdistrict."

Section 29. Section 85-7-2112, MCA, is amended to read:

"85-7-2112. Confirmation of board actions by district court. (1) Within 60 days after the resolution adopting the list, the board of commissioners may petition the district court for confirmation of ~~their~~ its acts in determining the irrigable area and in refunding or canceling any taxes or assessments. The majority in number and acreage of the holders of title or evidence of title to lands in the district or the majority in number and acreage of the holders of title or evidence of title in the subdistrict if only the irrigable area of the subdistrict is to be reviewed, ascertained determined as provided in 85-7-101 and 85-7-102, may likewise within such the 60-day period petition the district court for review of the actions of the board of--commissioners. However, one of these proceedings, if prosecuted to determination, is exclusive of the other. ~~Upon such proceeding, the~~ The court may order any assessment of taxes upon any land or lands to be reduced or raised according to the irrigable area as found by the court or taxes previously levied upon any area shown to be excessive to be refunded or canceled.

(2) The provisions of 85-7-1808 through 85-7-1810 regarding the procedure as well as the right and time to appeal apply to any proceeding instituted pursuant to this

section, provided nothing in this section affects or impairs the lien of any bonds issued by the district. If confirmation proceedings are held and a certified copy of the order of confirmation is filed with the county clerk and recorder of the county in which any portion of the lands is situated, it is not necessary to file in the office the certified copy of the resolution and order of the board or of the list provided for in this section."

Section 30. Section 85-7-2114, MCA, is amended to read:

"85-7-2114. Apportionment of costs when bonds issued. (1) Whenever a petition for the issuance of bonds of any irrigation district established under the provisions of part 1 has been filed as provided in 85-7-2012 through 85-7-2015, the board of commissioners of the district shall examine or cause to be examined each 40-acre tract or fractional lot as designated by the United States public survey or platted lot, if land is subdivided in lots and blocks (or whenever land is owned in less than 40-acre tracts or in less than the platted lot, then each such tract) of land in the district or of land in a subdistrict if the bonds are to be issued on behalf of the subdistrict, and cause a careful topographical survey and map to be made in the manner provided for in 85-7-2107. Upon such the examination, the board shall determine the number of irrigable acres in each

1 such tract and shall apportion and distribute the cost of
 2 the works or improvements for which the bonds are to be
 3 issued over the tracts within the district or subdistrict
 4 according to the irrigable area in each of the tracts or
 5 subdivisions, so that each such irrigable acre is required
 6 to bear the same burden of such costs as each other
 7 irrigable acre in the district or subdistrict, except as
 8 otherwise provided by law. The special tax or assessment
 9 levied to meet the principal of and interest on the bonds so
 10 authorized is a lien upon the entire tract of which such the
 11 irrigable area forms a part or portion as of January 1 of
 12 the year in which the special tax or assessment is levied,
 13 and the number of irrigable acres in each such tract as so
 14 determined may not be diminished but may be increased during
 15 the term for which ~~any-such~~ the bonds are issued or until
 16 the bonds are liquidated in full.

17 (2) Whenever a proceeding for the determination, in
 18 whole or in part, of the irrigable area of the lands in the
 19 district or subdistrict has already been had or a
 20 topographical survey or maps thereof prepared or a court
 21 confirmation of prior proceedings had, in part or in full,
 22 the board may, in its discretion, adopt all or such portions
 23 of the prior proceedings and need not cause an additional
 24 survey or maps or examination of any of such the tracts to
 25 be made or redetermine the irrigable area of any such tract.

1 (3) The board shall make such the determination after
 2 the hearing and shall fix the total acreage and the
 3 irrigable acreage and shall ~~cause prepare~~ prepare a list of such the
 4 irrigable area ~~to-be-made-and--fited~~ for filing, and the
 5 proceedings of the board in connection with such the
 6 determination, including the hearing and notice of the
 7 hearing and order or resolution fixing the irrigable area
 8 and the preparation and filing of the list, shall conform to
 9 the requirements set forth in 85-7-2107 through 85-7-2113.
 10 At the hearing, the board shall also determine the amount
 11 and rate per acre necessary to be levied against each
 12 irrigable acre in the district to meet the interest on and
 13 principal of the authorized bond issue, ~~and--any~~ The tax
 14 levied ~~for-such-purposes~~ is a lien upon the entire tract of
 15 which the irrigable area forms a part. If any landowner in
 16 the district or subdistrict appears before the board at that
 17 time and pays in cash the amount fixed against his land as
 18 its proportion of the amount found necessary for the
 19 purposes for which the bonds were authorized and are to be
 20 issued, his land ~~shall~~ must be excluded from the lien of the
 21 bond issue and the amount of bonds intended to be issued
 22 shall be reduced by the amount of such the payment. Any
 23 person interested who fails to appear before the board at
 24 the meeting may not thereafter ~~be-permitted-to~~ contest the
 25 proceedings of the board or any part thereof, except upon

1 special application to the court in the proceedings for the
2 confirmation of the bonds and a showing of reasonable excuse
3 for failure to appear before the board of commissioners."

4 **Section 31.** Section 85-7-2115, MCA, is amended to
5 read:

6 "85-7-2115. Objection by landowner. In case any such
7 landowner makes objection to the proceedings of the board in
8 determining the irrigable area in his own or any other tract
9 of land or the amount or rate per acre of the special tax
10 and assessment to be levied against each irrigable acre in
11 the district or subdistrict for the purposes of the proposed
12 bond issue and the objection is overruled by the board, the
13 objection without further proceedings ~~shall~~ must be regarded
14 as appealed to the district court and shall, with the other
15 proceedings of the board at the meeting, be heard at the
16 proceedings to confirm the bonds, as provided in 85-7-2016
17 through 85-7-2018, and when so confirmed, the order
18 overruling such the objection and confirming the order of
19 the board determining the irrigable area of each tract of
20 land and apportioning the cost of the improvement thereto to
21 each tract shall become final, binding, and conclusive upon
22 the landowner and upon the district, unless appealed from as
23 provided in 85-7-2018."

24 **Section 32.** Section 85-7-2116, MCA, is amended to
25 read:

1 "85-7-2116. Restrictions on reduction of taxable
2 acreage. Whenever the irrigable area of the lands in any
3 irrigation district or subdistrict has been determined and
4 confirmed, no owner or holder of title or evidence of title
5 to lands in the district or subdistrict, during the period
6 when any bonds thereafter--authorized are issued and
7 outstanding, may have the taxable acreage of his lands fixed
8 or adjudicated in the manner provided by 85-7-1841 through
9 85-7-1845 in such a manner or to such an extent as to reduce
10 the acreage subject to the payment of the bonds or interest
11 thereon or in such a manner as to affect the security of the
12 bonds or interest thereon on the bonds."

13 **NEW SECTION. Section 33.** Codification instruction.
14 [Sections 1 through 7] are intended to be codified as an
15 integral part of Title 85, chapter 7, and the provisions of
16 Title 85, chapter 7, apply to [sections 1 through 7].

17 **NEW SECTION. Section 34.** Saving clause. [This act]
18 does not affect rights and duties that matured, penalties
19 that were incurred, or proceedings that were begun before
20 [the effective date of this act].

21 **NEW SECTION. Section 35.** Severability. If a part of
22 [this act] is invalid, all valid parts that are severable
23 from the invalid part remain in effect. If a part of [this
24 act] is invalid in one or more of its applications, the part
25 remains in effect in all valid applications that are

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- 1 severable from the invalid application.
- 2 NEW SECTION. **Section 36.** Effective date. {This act}
- 3 is effective on passage and approval.

-End-