

HOUSE BILL 345

Introduced by Menahan, et al.

1/25	Introduced
1/25	Referred to Natural Resources
1/25	First Reading
2/08	Hearing
2/10	Tabled in Committee

1 House BILL NO. 345  
 2 INTRODUCED BY Monahan Whalen Roney  
 3 Hayes  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW OF  
 5 EMINENT DOMAIN FOR MINING; EXTENDING THE AREA PRESUMED TO BE  
 6 AFFECTED BY EXPLORATION OR MINING OPERATIONS OUTSIDE OF  
 7 INCORPORATED OR URBAN AREAS; PROVIDING ALTERNATIVE  
 8 COMPENSATION FOR AFFECTED PROPERTY OWNERS; PROVIDING FOR  
 9 REVOCATION OF EXPLORATION OR MINING LICENSES AND PERMITS;  
 10 AMENDING SECTIONS 82-2-221, 82-2-222, 82-2-223, AND  
 11 82-2-224, MCA; AND PROVIDING AN APPLICABILITY DATE."

12  
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 **Section 1.** Section 82-2-221, MCA, is amended to read:

15 "82-2-221. Eminent domain for open-pit exploration or  
 16 mining -- purchase of property or relocation required. (1)  
 17 Whenever--the--right Prior to the exercise of the power of  
 18 eminent domain, is-exercised-to-acquire-estates--and--rights  
 19 in--land--for--the--purpose--of-open-pit-mining-of-the-ores,  
 20 metals,--or-minerals-owned-by-the-plaintiff,--the-decree-shall  
 21 be-granted-on-condition--that--the--plaintiff--protects the  
 22 owner or lessee of a mining claim who explores for minerals,  
 23 works a mine, or alters an existing exploration or mining  
 24 operation shall protect the public in the immediate area by:  
 25 agreeing

1 (a) offering to purchase all property within 300 yards  
 2 of the mining claim if it is located within an incorporated  
 3 or urban area or within 1 mile of the surface--tract  
 4 condemned,--including--vacant--lots,--provided--the-owner-or  
 5 owners--thereof--serve-upon-the-plaintiff-and--file--with--the  
 6 court--a--written--offer--stating--the-amount-asked-for-such  
 7 property-within-30-days-from-the-entry-of--the--court--order  
 8 appointing--commissioners--in-said-eminent-domain-proceeding  
 9 mining claim if it is located outside of an incorporated or  
 10 urban area; or

11 (b) at the election of the property owner, relocating  
 12 the property owner to similar property.

13 (2) All property located within the distance referred  
 14 to in subsection (1) of a mining claim is considered  
 15 necessary to the exploration or mining operation unless the  
 16 property owner determines that the property is not necessary  
 17 to the exploration or mining operation. If a property owner  
 18 rejects the offer made pursuant to subsection (1), the  
 19 property owner may request a new offer, which may not be  
 20 less than the initial offer, at any time prior to the  
 21 commencement of eminent domain proceedings.

22 (3) In the event the plaintiff-and-the-owner-or-owners  
 23 parties are unable to agree upon the compensation to be paid  
 24 for such property, the court, upon petition of either party,  
 25 may proceed to determine the compensation to be paid for

1 such the property in the manner prescribed in Title 70,  
2 chapters 30 and 31, ~~as amended~~, for ascertaining the value  
3 of property taken through the exercise of the right of  
4 eminent domain.

5 (4) Failure to comply with this section is grounds for  
6 the revocation of a state license or permit for the  
7 exploration or mining operation issued to the owner or  
8 lessee of the exploration or mining operation."

9 **Section 2.** Section 82-2-222, MCA, is amended to read:

10 "82-2-222. Construction of alternate facilities.  
11 Whenever it condemnation is sought ~~to condemn~~ for streets,  
12 roads, alleys, or highways for the exploration or mining  
13 ~~purposes stated in 82-2-221 hereof~~, there ~~shall also~~ must be  
14 attached to the complaint for condemnation a plat or plats  
15 showing the alternate facilities to be proposed and paid for  
16 by the plaintiff, ~~and the~~ The court, in its final order of  
17 condemnation, may order the plaintiff to construct ~~such~~  
18 reasonable and adequate alternate facilities as it ~~deems~~  
19 considers appropriate under the circumstances."

20 **Section 3.** Section 82-2-223, MCA, is amended to read:

21 "82-2-223. Compensation for property. (1) The measure  
22 of compensation for the property located within 300 yards of  
23 the surfaced-tract-condemned-shall-be a mining claim located  
24 within an incorporated or urban area or within 1 mile of a  
25 mining claim located outside of an incorporated or urban

1 area is the fair market value or the value of similar  
2 property in a similar area not affected by open-pit  
3 exploration or mining operations, whichever the owner of the  
4 surface property ~~shall elect~~ elects to receive.

5 (2) The measure of compensation for a building owned by  
6 the city, county, or state ~~shall be~~ is the value of the cost  
7 of replacing the building in a similar area not affected by  
8 open-pit exploration or mining operations."

9 **Section 4.** Section 82-2-224, MCA, is amended to read:

10 "82-2-224. Notice of condemnation -- filing of plat.  
11 Any A party seeking to condemn property for open-pit  
12 exploration or mining purposes shall serve notice in writing  
13 on all owners and purchasers under contracts for deed of  
14 property within 300 yards of the ~~surface-tract-sought-to-be~~  
15 condemned mining claim if it is located within an  
16 incorporated or urban area or within 1 mile of the mining  
17 claim if it is not located within an incorporated or urban  
18 area or in--it--thereof-shall may file a plat showing the  
19 boundaries of the property sought to be condemned in the  
20 office of the county clerk and recorder, ~~and the~~ The filing  
21 of ~~said the~~ plat shall constitute constitutes notice to the  
22 owner or owners not personally served with written notice ~~as~~  
23 herein provided."

24 **NEW SECTION. Section 5. Applicability.** [This act]  
25 applies to exploration for mineral or mining operations

LC 0998/01

1 after October 1, 1993.

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