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House BILL NO. 459

INTRODUCED BY Cochran

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A FIRST-CLASS CITY TO CLOSE A DITCH RUNNING THROUGH ITS BOUNDARY IF 90 PERCENT OF THE PROPERTY IN AN IRRIGATION DISTRICT DOES NOT USE THE DITCH FOR COMMERCIAL IRRIGATION PURPOSES; REQUIRING THE CITY TO REPLACE LOST COMMERCIAL IRRIGATION WATER WITH A WELL IF REQUESTED TO DO SO BY THE OWNER OF THE PROPERTY; AND AMENDING SECTION 7-31-4207, MCA."

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

Section 1. Section 7-31-4207, MCA, is amended to read:

"7-31-4207. Exemption for commercial irrigation ditches -- improvement districts for protection from open ditches -- right of first-class city to close ditch. (1) Except as provided in subsection (3), this part does not apply to ditches carrying water used for commercial irrigation purposes.

(2) ~~However, whenever~~ Whenever the public interest ~~or convenience~~ may require, a city or town ~~is hereby authorized and empowered to~~ may create a special improvement district for the purpose of building, constructing, acquiring by purchase, and maintaining devices intended to protect the safety of the public from open ditches carrying water. ~~Such~~ The devices or improvements ~~shall~~ must provide access to and ~~shall~~ may not be constructed so as to hinder the operation and maintenance of the ditch. The owner or owners of open ditches carrying irrigation or other water shall not be included in any special improvement district under this part for the purpose of assessment to support the special improvement district for the installation, repair, or maintenance of any protective devices.

(3) (a) If 90% of the property in an irrigation district does not use an irrigation ditch for commercial irrigation purposes and the irrigation ditch runs through the boundaries of a first-class city, the city may close and fill the ditch.

(b) If an irrigation ditch is closed under this subsection (3), the city shall establish a well or wells to replace lost irrigation water to any property that used the irrigation ditch for commercial irrigation purposes if requested to do so by the owner of that property."

-END-

