

SENATE AGRICULTURE
EXP. NO. 20
DATE 2-19-09
BILL NO. SB 407

Section 2. Section 85-7-1957, MCA, is amended to read:

“85-7-1957. United States contracts – court approval required. (1) ~~The board of commissioners of any irrigation district, before the making of any contract~~ Prior to entering into any repayment contract, any water service contract with a term of more than 1 year, or any operation or maintenance contract with the United States hereunder; under this chapter, the board of commissioners of an irrigation district shall commence a special proceeding in the district court of the state, ~~by~~

(2) The irrigation district shall establish that it is organized in accordance with state law and has the capacity to enter into contracts with the United States pursuant to applicable federal laws.

(3) The district court shall examine and approve or disapprove ~~which~~ the proceedings of the board and of the district leading up to the making of any such a contract and the validity of the terms thereof shall be judicially examined and approved and affirmed or disapproved and disaffirmed by determining whether the proceedings were in accordance with the voting or petition procedures provided in 85-7-1956.

(4) The district court shall judicially examine the terms of the contract to determine that the terms are valid and consistent with applicable Montana law, and shall issue an order approving and affirming or disapproving and disaffirming the terms of the contract. If judicial examination of the terms of the contract requires the district court to interpret and determine existing water rights on a source of water in which not all existing rights have been conclusively determined according to part 2 of chapter 2 of this title, the district court shall, upon motion of a party or on its own motion, certify the matter to the chief water judge for interpretation and determination of the existing water rights that are involved in the contract. A certified question must be given priority over all other adjudication matters. After determination of the matters certified, the water judge shall return the decision to the district court with a tabulation or list of the existing rights, a decree of the elements of such existing water rights.

(2)(4)(5) ~~The practice and procedure for the confirmation of any step or action, as provided in subsection (1) this section, shall be~~ must conform as nearly as possible ~~in conformity~~ with the practice and procedure ~~now~~ provided for in the confirmation before the issuance and

sale of bonds of an irrigation district.

~~(5)~~(6) The court may approve and affirm ~~such~~ the proceedings in part and disapprove and declare illegal or invalid other and subsequent parts of the proceedings, and ~~insofar as to the~~ extent possible, the court shall remedy and cure all defects in ~~said~~ the proceedings.”

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