

HOUSE BILL NO. 45

INTRODUCED BY S. LAVIN

BY REQUEST OF THE LAW AND JUSTICE INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT A COMPLAINT FOR CONDEMNATION INCLUDE A COPY OF THE ENVIRONMENTAL QUALITY COUNCIL'S EMINENT DOMAIN IN MONTANA HANDBOOK; AMENDING SECTION 70-30-203, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 70-30-203, MCA, is amended to read:

"70-30-203. Contents of complaint. (1) The complaint for condemnation must contain:

(a) the name of the corporation, association, commission, or person in charge of the public use for which the property is sought to be taken, who is the plaintiff;

(b) the names of all owners, purchasers under contracts for deed, mortgagees, and lienholders of record and any other claimants of record of the property sought to be taken, if known, or a statement that they are unknown, who are the defendants;

(c) a statement of the right of the plaintiff to take the property for public use;

(d) statements of each of the facts necessary to be found in 70-30-111;

(e) a description of each interest in real property sought to be taken, a statement of whether the property sought to be taken includes the whole or only a part of the entire parcel or tract, and a statement that the interest sought is the minimum necessary interest. All parcels lying in the county and required for the same public use may be included in the same or separate proceedings, at the option of the plaintiff, but the court may consolidate or separate them to suit the convenience of the parties.

(f) a statement of the condemnor's claim of appropriate payment for damages to the property proposed to be taken as well as to any remaining parcel of property.

(2) In addition to the items listed in subsection (1), a copy of the current publication produced by the environmental quality council entitled "Eminent Domain In Montana" must be attached to the complaint as an exhibit.

~~(2)~~(3) If a right-of-way is sought, in addition to the items listed in subsection (1), the complaint must show

1 the location, general route, and termini and must be accompanied with a map of the route, so far as the route is
2 involved in the action or proceeding.

3 ~~(3)~~(4) (a) If a sand, stratum, or formation suitable for use as an underground natural gas storage
4 reservoir is sought to be taken, in addition to the items listed in subsection (1), the complaint must include a
5 description of the reservoir and of the land in which the reservoir is alleged to be contained and a description of
6 all other property and rights sought to be taken for use in connection with the right to store natural gas in and
7 withdraw natural gas from the reservoir.

8 (b) In addition, the complaint must state facts showing that:

9 (i) the reservoir is subject to being taken by the plaintiff;

10 (ii) the underground storage of natural gas in the land sought to be taken is in the public interest;

11 (iii) the reservoir is suitable and practicable for natural gas storage;

12 (iv) the plaintiff in good faith has been unable to acquire the rights sought to be taken; and

13 (v) a statement that the rights and property sought to be taken are not prohibited by law from being
14 taken.

15 (c) The complaint must be accompanied by a certificate from the board of oil and gas conservation as
16 provided in 82-10-304."

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18 NEW SECTION. **Section 2. Applicability.** [This act] applies to complaints filed on or after [the effective
19 date of this act].

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