

HOUSE BILL NO. 388
INTRODUCED BY B. LAKE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING INDIVIDUAL OWNERS OF TRACTS OF LAND 3 ACRES OR SMALLER IN SIZE THAT ARE LOCATED WITHIN THE BOUNDARIES OF IRRIGATION DISTRICTS AND THAT ARE NOT BEING SERVED BY THE IRRIGATION DISTRICT WORKS TO BE ELIMINATED FROM ASSESSMENTS OVER AND ABOVE CURRENT INDEBTEDNESS; REQUIRING THAT TRACTS LOCATED WITHIN AN IRRIGATION DISTRICT THAT HAS A CONTRACT WITH THE UNITED STATES BUREAU OF RECLAMATION MAY NOT BE PETITIONED OUT OF THE DISTRICT IF THE LOSS OF THAT ACREAGE WOULD IMPAIR THE CONTRACT UNLESS THERE IS SUITABLE ACREAGE TO REPLACE THE PETITIONED ACREAGE; AMENDING SECTIONS 85-7-411 AND 85-7-1802, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

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

NEW SECTION. Section 1. Small tract petition to exclude land from district. (1) When a tract in an irrigation district is 3 acres or smaller in size, a person holding title to that tract of land meeting the criteria in 85-7-1802(2) may petition the district court for an exclusion of the person's tract from an irrigation district, a subdistrict, or a combination of a district and subdistrict. The petition must be signed by all persons who hold title to the tract to be excluded and must specify:

- (a) the name of the irrigation district;
 - (b) the name and address of the persons holding title to the tract;
 - (c) evidence of title to the tract to be excluded, as provided in 85-7-101 and 85-7-102;
 - (d) a copy of a map or plat of the irrigation district showing the location of the tract sought to be excluded and the relation of that land to the works of the district;
 - (e) a statement, corroborated by adequate documentation, that the users of the tract do not and cannot feasibly obtain water from the irrigation district through existing irrigation works;
 - (f) a copy of a recent tax statement documenting assessment of the tract by the irrigation district; and
 - (g) a request that the tract be excluded.
- (2) Upon filing the petition with the court, the petitioner shall mail a copy of the completed petition by certified mail to the irrigation district subject to the petition.

(3) The petitioner shall file the petition, proof of mailing pursuant to subsection (2), and a \$20 fee with the clerk of the district court for the county in which the irrigation district was created.

(4) Within 15 days of the date of the filing of the petition, the irrigation district may file an objection to the petition. To be valid, the objection must provide sufficient evidence that the conditions set forth in 85-7-1802(2) do not apply to the tract petitioned for exclusion.

(5) If a valid objection is filed, the court may hold a hearing if necessary to resolve the facts of the petition.

(6) The court shall grant the petition for exclusion:

- (a) if no objections are filed within 15 days of filing the petition; or
- (b) upon determination of the court that the petition is sufficient.

(7) The court shall forward to the irrigation district a copy of the order granting the exclusion.

(8) A petition granted in this section excludes the petitioned tract from the irrigation district for all purposes, except that it remains subject to assessment for any existing district debt. Once a petition is granted, administrative and miscellaneous fees and charges may not be collected from the petitioned tract and the tract owner is exempt from future legal liability of the district.

Section 2. Section 85-7-411, MCA, is amended to read:

"85-7-411. 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 and [section 1].

(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."

Section 3. Section 85-7-1802, MCA, is amended to read:

"85-7-1802. Elimination of lands land from district. (1) Whenever ~~lands have~~ land has been included within the boundaries of an established and organized irrigation district, which from ~~their~~ its location or conformation cannot be successfully irrigated by the irrigation works or system already constructed or proposed to be constructed or the cost of irrigating the ~~same~~ land will become burdensome upon the landowners of the district, a majority ~~in number~~ of the holders of title or evidence of title to the land included in ~~such~~ the district (~~such~~

the holders of title or evidence of title also representing a majority in acreage of ~~said lands~~ that land) may, in conformance with 85-7-1803 through 85-7-1807, 85-7-1821, and 85-7-1822, petition the district court of the county in which the ~~lands~~ land of the district or the greater portion thereof are of that land is situated for an order or decree changing the boundaries of the district by ~~the elimination therefrom of such lands~~ eliminating that land from the district.

(2) (a) Subject to subsection (2)(b), whenever a tract of record that is 3 acres or smaller in size is located within an irrigation district and is not served and has not been served for the previous 5 years by any district system, facility, or other undertaking and cannot be served without an unreasonable burden being placed on the tract owner or the district, the owner of the tract may petition to eliminate the tract from a district pursuant to [section 1].

(b) If the elimination of property from the district threatens the acreage requirement or other provisions of a United States bureau of reclamation contract, the owner of the tract may not petition the tract out of the district unless there is suitable property accepted by the district to replace the acreage being petitioned out of the district and the owner agrees to cooperate with the district to be included in a joint petition composed of all petitions received during the calendar year of filing."

NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 85, chapter 7, part 18, and the provisions of Title 85, chapter 7, part 18, apply to [section 1].

NEW SECTION. Section 5. Saving clause. (1) [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 7. Termination. [This act] terminates December 31, 2007.

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