

HOUSE BILL NO. 433

INTRODUCED BY B. HAMLETT

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING TOWNS, CITIES, AND REGIONAL WATER AUTHORITIES FROM USING EMINENT DOMAIN TO CONDEMN WATER OR WATER RIGHTS USED PRIMARILY FOR AGRICULTURE; AND AMENDING SECTIONS 7-13-4405 AND 75-6-313, MCA."

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

Section 1. Section 7-13-4405, MCA, is amended to read:

"7-13-4405. Acquisition of water rights and other necessary property. (1) For the purpose of providing the city or town with an adequate water supply for municipal and domestic purposes, the city or town council shall procure appropriate water rights and the necessary real and personal property to make an adequate water supply available. ~~The~~

(2) Except as provided in subsection (3), the water rights and property may be acquired by purchase, appropriation, location, condemnation pursuant to Title 70, chapter 30, or in any other legal manner.

(3) A city or town may not condemn water or water rights if the water or water right is used primarily for agricultural purposes."

Section 2. Section 75-6-313, MCA, is amended to read:

"75-6-313. Powers of governing body. (1) For the purpose of providing a water supply, transportation facilities, or treatment system to the participating public agencies and others, the governing body of the authority has the powers, authorities, and privileges provided for in this section.

(2) The governing body may accept by gift or grant from any person, firm, corporation, trust, or foundation, from this state or any other state or any political subdivision or municipality of this or any other state, or from the United States any funds or property or any interest in funds or property for the uses and purposes of the authority. The governing body may hold title to the funds or property in trust or otherwise and may bind the authority to apply the funds or property according to the terms of the gift or grant.

(3) The governing body may sue and be sued.

(4) The governing body may enter into franchises, contracts, and agreements with this or any other state,

1 the United States, any municipality, political subdivision, or authority of a political subdivision, or any of their
2 agencies or instrumentalities; any Indian tribe; or any public or private person, partnership, association, or
3 corporation of this state or of any other state or the United States. This state and any municipality, political
4 subdivision, or authority of a political subdivision or any of their agencies or instrumentalities and any public or
5 private person, partnership, association, or corporation may enter into contracts and agreements with the
6 authority for any term not exceeding 40 years for the planning, development, construction, acquisition,
7 maintenance, or operation of a facility or for any service rendered to, for, or by the authority. However, the
8 authority is subject to the same statutory requirements for competitive bidding and procurement contracts as
9 would be applicable to any member public agency.

10 (5) The governing body may borrow money and evidence the borrowing by warrants, notes, or bonds
11 provided for in this part and may refund the indebtedness by the issuance of refunding obligations.

12 (6) (a) The governing body may acquire land and interests in land by gift, purchase, exchange, or
13 eminent domain. ~~The~~

14 (b) Except as provided in subsection (6)(c), the power of eminent domain may be exercised within or
15 outside of the boundaries of the authority in accordance with the provisions of Title 70, chapter 30.

16 (c) The governing body may not condemn water or water rights if the water or water right is used
17 primarily for agricultural purposes.

18 (7) The governing body may acquire by purchase or lease, construct, install, and operate reservoirs,
19 pipelines, wells, check dams, pumping stations, water purification plants, and other facilities for the production,
20 distribution, and use of water and transportation facilities, pump stations, lift stations, treatment facilities, and other
21 facilities necessary for the transportation and treatment of wastewater and may own and hold real and personal
22 property that may be necessary to carry out the purposes of its organization.

23 (8) The governing body has the general management, control, and supervision of all the business,
24 affairs, property, and facilities of the authority and of the construction, installation, operation, and maintenance
25 of authority improvements. The governing body may establish regulations relating to authority improvements.

26 (9) The governing body may hire and retain agents, employees, engineers, and attorneys and determine
27 their compensation. The governing body shall select and appoint a general manager of the authority who shall
28 serve at the pleasure of the governing body. The general manager must have training and experience in the
29 supervision and administration of the system or systems operated by the authority and shall manage and control
30 the system under the general supervision of the governing body. All employees, servants, and agents of the

1 authority must be under the immediate control and management of the general manager. The general manager
2 shall perform all other duties that may be prescribed by the governing body and shall give the governing body
3 a good and sufficient surety company bond in a sum to be set and approved by the governing body, conditioned
4 upon the satisfactory performance of the general manager's duties. The governing body may also require that
5 any other employees be bonded in an amount that it shall determine. The cost of a bond must be paid out of the
6 funds of the authority.

7 (10) The governing body may adopt and amend rules and regulations not in conflict with the constitution
8 and laws of this state, necessary for carrying on the business, objects, and affairs of the governing body and of
9 the authority.

10 (11) The governing body has and may exercise all rights and powers necessary or incidental to or implied
11 from the specific powers granted in this section. Specific powers may not be considered as a limitation upon any
12 power necessary or appropriate to carry out the purposes of this part."

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