

HOUSE BILL NO. 265

INTRODUCED BY K. WHITE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE APPROVAL PROCESS FOR LAND-RELATED ACQUISITIONS BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS; REQUIRING CERTAIN EASEMENTS TO BE APPROVED BY THE BOARD OF LAND COMMISSIONERS; AND AMENDING SECTION 87-1-209, MCA."

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

**Section 1.** Section 87-1-209, MCA, is amended to read:

**"87-1-209. Acquisition and sale of lands or waters.** (1) (a) Subject to 87-1-218 and subsection (8) of this section, the department, with the consent of the commission or the board may acquire for the purposes listed in subsection (1)(b):

~~(i) and, in the case of land acquisition involving more than 100 acres or \$100,000 in value, the approval of the board of land commissioners, may acquire land~~ by purchase, lease, agreement, gift, or devise ~~and may acquire easements upon lands or waters for the purposes listed in this subsection. In the case of land acquisition involving more than 100 acres or \$100,000 in value, the approval of the board of land commissioners is also~~ required.

(ii) easements upon lands or waters. In the case of easements for which more than \$100,000 in state funds will be used for the acquisition, the approval of the board of land commissioners is also required.

(b) The department may develop, operate, and maintain acquired lands or waters:

~~(a)~~(i) for fish hatcheries or nursery ponds;

~~(b)~~(ii) as lands or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or protection;

~~(c)~~(iii) for public hunting, fishing, or trapping areas;

~~(d)~~(iv) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;

~~(e)~~(v) for state parks and outdoor recreation;



1           (f)(vi) to extend and consolidate by exchange, lands or waters suitable for these purposes.

2           (2) The department, with the consent of the board, may acquire by condemnation, as provided in Title  
3 70, chapter 30, lands or structures for the preservation of historic or archaeological sites that are threatened with  
4 destruction or alteration.

5           (3) (a) Subject to section 2(3), Chapter 560, Laws of 2005, the department, with the consent of the  
6 commission or the board, may dispose of lands and water rights acquired by it on those terms after public notice  
7 as required by subsection (3)(b) of this section, without regard to other laws that provide for sale or disposal of  
8 state lands and with or without reservation, as it considers necessary and advisable. The department, with the  
9 consent of the commission or the board, may convey department lands and water rights for full market value to  
10 other governmental entities or to adjacent landowners without regard to the requirements of subsection (3)(b) or  
11 (3)(c) if the land is less than 10 acres or if the full market value of the interest to be conveyed is less than \$20,000.  
12 When the department conveys land or water rights to another governmental entity or to an adjacent landowner  
13 pursuant to this subsection, the department, in addition to giving notice pursuant to subsection (3)(b), shall give  
14 notice by mail to the landowners whose property adjoins the department property being conveyed.

15           (b) Subject to section 2(3), Chapter 560, Laws of 2005, notice of sale describing the lands or waters to  
16 be disposed of must be published once a week for 3 successive weeks in a newspaper with general circulation  
17 printed and published in the county where the lands or waters are situated or, if a newspaper is not published in  
18 that county, then in any newspaper with general circulation in that county.

19           (c) The notice must advertise for cash bids to be presented to the director within 60 days from the date  
20 of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal  
21 to 10% of the amount bid. The highest bid must be accepted upon payment of the balance due within 10 days  
22 after mailing notice by certified mail to the highest bidder. If that bidder defaults on payment of the balance due,  
23 then the next highest bidders must be similarly notified in succession until a sale is completed. Deposits must be  
24 returned to the unsuccessful bidders except bidders defaulting after notification.

25           (d) The department shall reserve the right to reject any bids that do not equal or exceed the full market  
26 value of the lands and waters as determined by the department. If the department does not receive a bid that  
27 equals or exceeds fair market value, it may then sell the lands or water rights at private sale. The price accepted  
28 on any private sale must exceed the highest bid rejected in the bid process.

29           (4) When necessary and advisable for the management and use of department property, the director  
30 is authorized to grant or acquire from willing sellers right-of-way easements for purposes of utilities, roads,

1 drainage facilities, ditches for water conveyance, and pipelines if the full market value of the interest to be  
2 acquired is less than \$20,000. Whenever possible, easements must include a weed management plan. Approval  
3 of the commission or the board is not required for grants and acquisitions made pursuant to this subsection. In  
4 granting any right-of-way pursuant to this subsection, the department shall obtain a fair market value, but the  
5 department is not otherwise required to follow the disposal requirements of subsection (3). The director shall  
6 report any easement grant or acquisition made pursuant to this subsection to the commission or the board at its  
7 next regular meeting.

8 (5) The department shall convey lands and water rights without covenants of warranty by deed executed  
9 by the governor or in the governor's absence or disability by the lieutenant governor, attested by the secretary  
10 of state and further countersigned by the director.

11 (6) Subject to 87-1-218, the department, with the consent of the commission, is authorized to utilize the  
12 installment contract method to facilitate the acquisition of wildlife management areas in which game and nongame  
13 fur-bearing animals and game and nongame birds may breed and replenish and areas that provide access to  
14 fishing sites for the public. The total cost of installment contracts may not exceed the cost of purchases authorized  
15 by the department and appropriated by the legislature.

16 (7) The department is authorized to enter into leases of land under its control in exchange for services  
17 to be provided by the lessee on the leased land.

18 (8) Approval of the board for the acquisition or disposal of land or water pursuant to this section is  
19 required only for land and water administered under Title 23, chapter 1, or Title 23, chapter 2, parts 1 and 4."

20

- END -