

SENATE BILL NO. 337

EXHIBIT 15
DATE 4.1.05
SB 337

INTRODUCED BY WEINBERG, JOPEK, FACEY

A BILL FOR AN ACT ENTITLED: "AN ACT ~~REMOVING~~ REVISING RESTRICTIONS ON CONSERVATION EASEMENTS ON STATE LAND; PROVIDING FOR THE TERMS OF CONSERVATION EASEMENTS ON STATE LAND; PROVIDING THAT TRADITIONAL CLASSIFIED USES MAY BE MAINTAINED; PROVIDING THAT A CONSERVATION EASEMENT ON STATE LAND MAY BE HELD BY A GOVERNMENTAL ENTITY OR A QUALIFIED PRIVATE ORGANIZATION, PROVIDING FOR A TERMINATION DATE FOR NEW SECTION 3; AND AMENDING SECTION 77-2-101, MCA."

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

Section 1. Section 77-2-101, MCA, is amended to read:

"77-2-101. Easements for specific uses. (1) Upon proper application as provided in 77-2-102, the board may grant easements on state lands for the following purposes:

- (a) schoolhouse sites and grounds;
 - (b) public parks;
 - (c) community buildings;
 - (d) cemeteries;
 - (e) conservation purposes:
 - (i) to the department of fish, wildlife, and parks for parcels that are surrounded by or adjacent to land owned by the department of fish, wildlife, and parks as of January 1,2001;
 - (ii) to a nonprofit corporation for parcels that are surrounded by or adjacent to land owned by the same nonprofit corporation as of January 1,2001;
 - (iii) To a nonprofit corporation for the Owen Sowerwine natural area located with section 16 township 28 north, range 21 west, in Flathead County;
 - (iv) AS PROVIDED IN SUBSECTION 3
 - (f) ~~for~~ other public uses.
- (2) The board may grant easements on state lands for the following purposes:

(a) right-of-way across or upon any portion of state lands for any public highway or street, any ditch, reservoir, railroad, private road, or telegraph or telephone line, or any other public use as defined in 70-30-102; or

(b) any private building or private sewage system that encroaches on state lands.

(3) (A) A CONSERVATION EASEMENT GRANTED PURSUANT TO THIS SECTION:

(I) MAY BE GRANTED ~~IN PERPETUITY OR FOR TERMS OF YEARS NOT TO EXCEED 99 YEARS:~~

(II) MAY BE HELD ONLY BY A GOVERNMENTAL ENTITY OR A QUALIFIED PRIVATE ORGANIZATION AS DEFINED IN 76-6-104; AND

(III) MUST BE SUBJECT TO 77-2-304.

(IV) PRIOR TO GRANTING A CONSERVATION EASEMENT, THE DEPARTMENT SHALL CONDUCT AND PRESENT TO THE BOARD ANY FINANCIAL ANALYSES OR MARKET SURVEYS NECESSARY TO EVALUATE THE MERITS OF NOT RESTRICTING THE USE OF STATE LANDS, RESTRICTING USE FOR SET TERMS, OR RESTRICTING USE IN PERPETUITY. ISSUES TO BE EXAMINED INCLUDE BUT ARE NOT LIMITED TO:

(a) CURRENT AND PROJECTED PROPERTY VALUES;

(b) CURRENT AND PROJECTED RATES OF RETURN FOR THE AFFECTED TRUST BENEFICIARY;

(c) CURRENT AND PROJECTED MARKET CONDITIONS AND OTHER FACTORS THAT MAY AFFECT THE ECONOMIC VIABILITY OF STATE LANDS.

(B) UNLESS THE BOARD PROVIDES A COMPELLING REASON, CONSERVATION EASEMENTS SHOULD MUST ALLOW:

(I) TRADITIONAL CLASSIFIED USES DESCRIBED IN 77-1-401, INCLUDING TIMBER, GRAZING, AND AGRICULTURAL USES THAT WERE IN PLACE PRIOR TO THE EASEMENT BEING ISSUED; AND

(II) GENERAL RECREATION USES AS PROVIDED IN TITLE 77, CHAPTER 1, PART 8."

NEW SECTION. Section 5. [standard] Termination – contingency. [Section 3] terminates on January 1, 2016, or the date which conservation easements subject to the provisions of [section 3] have been granted on 25,000 acres of state lands, whichever is earlier. The department of natural resources and conservation shall notify the code commissioner of the date on which [Section 3] terminates. Upon termination on [Section 3] any easements conveyed must fulfill the obligations granted.

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