

HOUSE BILL NO. 208

INTRODUCED BY KAUFMANN

BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS, THROUGH ITS DIRECTOR, TO GRANT OR ACQUIRE RIGHTS-OF-WAY FOR CERTAIN PURPOSES WITHOUT THE APPROVAL OF THE FISH, WILDLIFE, AND PARKS COMMISSION; ALLOWING THE DEPARTMENT, WITH THE CONSENT OF THE COMMISSION, TO MAKE LIMITED PROPERTY BOUNDARY AND WATER RIGHTS ADJUSTMENTS WITH ADJACENT LANDOWNERS; AMENDING ~~SECTION~~ SECTIONS 87-1-209 AND 87-1-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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) The department, with the consent of the commission 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 by purchase, lease, agreement, gift, or devise and may acquire easements upon lands or waters for the purposes listed in this subsection. The department may develop, operate, and maintain acquired lands or waters:

(a) for fish hatcheries or nursery ponds;

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

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

(d) 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) for state parks and outdoor recreation;

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

(2) The department, with the consent of the commission, may acquire by condemnation, as provided in Title 70, chapter 30, lands or structures for the preservation of historical or archaeological sites that are

1 threatened with destruction or alteration.

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

12 (b) Notice of sale describing the lands or waters to be disposed of must be published once a week for
13 3 successive weeks in a newspaper with general circulation printed and published in the county where the lands
14 or waters are situated or, if a newspaper is not published in that county, then in any newspaper with general
15 circulation in that county.

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

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

26 (4) When necessary and advisable for the management and use of department property, the director
27 is authorized to grant or acquire FROM WILLING SELLERS right-of-way easements for purposes of utilities, roads,
28 drainage facilities, ditches for water conveyance, AND pipelines, and access IF THE FULL MARKET VALUE OF THE
29 INTEREST TO BE ACQUIRED IS LESS THAN \$20,000. WHENEVER POSSIBLE, EASEMENTS MUST INCLUDE A WEED
30 MANAGEMENT PLAN. Approval of the commission is not required for grants and acquisitions made pursuant to this

1 subsection. In granting any right-of-way pursuant to this subsection, the department shall obtain a fair market
 2 value, but the department is not otherwise required to follow the disposal requirements of subsection (3). THE
 3 DIRECTOR SHALL REPORT ANY EASEMENT GRANT OR ACQUISITION MADE PURSUANT TO THIS SUBSECTION TO THE
 4 COMMISSION AT ITS NEXT REGULAR MEETING.

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

8 (5)(6) The department, with the consent of the commission, is authorized to utilize the installment
 9 contract method to facilitate the acquisition of wildlife management areas in which game and nongame
 10 fur-bearing animals and game and nongame birds may breed and replenish and areas that provide access to
 11 fishing sites for the public. The total cost of installment contracts may not exceed the cost of purchases
 12 authorized by the department and appropriated by the legislature.

13 (6)(7) The department is authorized to enter into leases of land under its control in exchange for
 14 services to be provided by the lessee on the leased land."
 15

16 **SECTION 2. SECTION 87-1-301, MCA, IS AMENDED TO READ:**

17 **"87-1-301. Powers of commission.** (1) The commission:

18 (a) shall set the policies for the protection, preservation, management, and propagation of the wildlife,
 19 fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment
 20 of all other responsibilities of the department as provided by law;

21 (b) shall establish the hunting, fishing, and trapping rules of the department;

22 (c) shall establish the rules of the department governing the use of lands owned or controlled by the
 23 department and waters under the jurisdiction of the department;

24 (d) must have the power within the department to establish wildlife refuges and bird and game
 25 preserves;

26 (e) shall approve all acquisitions or transfers by the department of interests in land or water, except as
 27 provided in 87-1-209(4);

28 (f) shall review and approve the budget of the department prior to its transmittal to the budget office;

29 (g) shall review and approve construction projects that have an estimated cost of more than \$1,000 but
 30 less than \$5,000; and

1 (h) shall manage elk, deer, and antelope populations based on habitat estimates determined as
2 provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates
3 as provided in 87-1-323.

4 (2) The commission may adopt rules regarding the use and type of archery equipment that may be
5 employed for hunting and fishing purposes, taking into account applicable standards as technical innovations
6 in archery equipment change.

7 (3) The commission may adopt rules regarding the establishment of special licenses or permits,
8 seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or
9 enhance hunting by Montana's youth and persons with disabilities.

10 (4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

11 (i) separate deer licenses from nonresident elk combination licenses;

12 (ii) set the fees for the separated deer combination licenses and the elk combination licenses without
13 the deer tag;

14 (iii) condition the use of the deer licenses; and

15 (iv) limit the number of licenses sold.

16 (b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary
17 and appropriate to regulate the harvest by nonresident big game combination license holders:

18 (i) for the biologically sound management of big game populations of elk, deer, and antelope;

19 (ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and

20 (iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321
21 through 87-1-325.

22 (5) The commission may adopt rules establishing license preference systems to distribute hunting
23 licenses and permits:

24 (a) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant
25 who has been unsuccessful for a shorter period of time; and

26 (b) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(b), "qualifying
27 landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined
28 by the commission.

29 (6) (a) The commission may adopt rules to:

30 (i) limit the number of nonresident mountain lion hunters in designated hunting districts; and

1 (ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting
2 districts.

3 (b) The commission shall consider, but is not limited to consideration of, the following factors:

4 (i) harvest of lions by resident and nonresident hunters;

5 (ii) history of quota overruns;

6 (iii) composition, including age and sex, of the lion harvest;

7 (iv) historical outfitter use;

8 (v) conflicts among hunter groups;

9 (vi) availability of public and private lands; and

10 (vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters."

11

12 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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