

Fiscal Note Request HB0554, As Introduced

(continued)

7. The bill does not specifically provide a valuation method to use when valuing a conservation easement. However, 15-8-111, MCA, provides that “All taxable property must be assessed at 100% of its market value except as otherwise provided”. Without further clarification, the department would be required to value easements and conservation easements at market value. (See technical note #3)
8. The department does not have the means, or the resources to value conservation easements at a market value. The information necessary to determine market value is contained within the provisions of each privately negotiated conservation easement. No estimate of the revenue generated by the proposal can be provided without this information.
9. The department can create records in the existing computer system and assess the holders of conservation easements. No enhancements or modifications to existing computer systems are anticipated for implementation of the proposal.
10. The appraisal of easements would need to be contracted out to fee appraisers. The department does not have appraisers qualified to conduct the in-depth and highly specialized appraisals of conservation easements. The specialized fee appraisers that would be hired typically charge \$5,000 to \$10,000 per appraisal. For purposes of this analysis, an average of \$7,500 per appraisal is used. It takes approximately 14 days, or 112 hours, to complete one of these complex appraisals.
11. In order for the department to comply with the general assessment day of January 1, 2006, identification of the holders of the easements, and the determination of the value of the easements would need to be completed during the last half of calendar year 2005. To complete the task in 6 months, and based on a 2,080 hour work year, (1,040 hours for a half year) the department would require hiring 158 fee appraisers for the period. (1,468 easements X 112 hours = 164,416 total hours; 164,416 hours ÷ 1,040 hours = 158 appraisers)
12. For purposes of this analysis, the operating expense - contracted services cost of completing the appraisals would be \$11,010,00 (1,468 easements X \$7,500/fee appraisal = \$11,010,000). This is a one time only cost in FY2006. Training of department appraisers to assume the task and maintain the valuation of the easements has not been included in the estimated costs (see technical note #5).

FISCAL IMPACT:

	<u>FY 2006</u> <u>Difference</u>	<u>FY 2007</u> <u>Difference</u>
FTE		
<u>Expenditures:</u>		
Operating Expenses	\$11,010,000	
<u>Funding of Expenditures:</u>		
General Fund (01)	(\$11,010,000)	
<u>Revenues:</u>		
General Fund (01)		
State Special Revenue (02)		
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>		
General Fund (01)	(\$11,010,000)	
State Special Revenue (02)		

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EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Local governments and schools would have an unknown amount of additional taxable value within their taxing jurisdictions. This new value would be considered newly taxable property under the mill levy calculation statute under 15-10-420, MCA: this means that local governments could receive additional revenues on the new value within their taxing jurisdiction.

TECHNICAL NOTES:

1. The 1,900,000 acres is not inclusive of all conservation easements. It represents only those conservation easements that have been identified by the Natural Heritage Program at the Montana State Library and other private sources. Note that neither the Natural Heritage Program nor its parent body, the Natural Resource Information System, are the holder of, or are party to any conservation easements.
2. The effective date of the act is for tax years beginning after December 31, 2005. There is no language in the bill about the valuation and taxation of existing easements. Specifically, is DOR required to identify and assess all existing easements or is it the intent to assess and tax easements filed after the effective date of the proposal? Are existing easements “grandfathered” in or are they subject to the proposal? Clarification should be provided.
3. The valuation of a conservation easement is unclear. Section 1 states that the easements are to be assessed as class 4 property. Class 4 property is valued using one of three approaches to value: the market value, the cost approach, or the income approach. Typically, the “market value” of class 4 property is determined using one of three appraisal methods. The most common method is the market approach to value. Under the market approach a willing buyer and seller enter into an arm’s length agreement with neither party being compelled to enter the agreement and all parties being fully informed about the property. The other approaches used in valuing class 4 property are the cost approach and the income approach, although neither of these approaches to value are applicable to the appraisal of easements. Direction should be provided regarding the method of valuation that should be used on easements.
4. The Montana Department of Fish, Wildlife and Parks has a number of perpetual easements allowing hunting, fishing or recreational access to privately owned lands. These easements are not part of a conservation easement. However, these easements are permanently attached to approximately 6,600 acres of privately owned land, but are held by FWP and are taxable under the provisions of the bill. These particular easements go with the land when it changes ownership. These easements have not been included in the cost of appraising easements. The proposal should provide clarification to DOR for valuing and assessing easements that are not conservation easements held by a public agency.
5. It’s assumed that DOR appraisal staff would conduct future appraisals of easements. Class 4 property is subject to cyclical reappraisal and the next appraisal cycle ends on December 31, 2008.

For training of DOR appraisal staff, and conducting the appraisal prior to the end of the appraisal cycle DOR will require significant training and experience requirements for existing staff. The numerous schools, training costs, and experience criteria necessary to complete an easement appraisal are difficult to quantify in a short period of time so no estimate has been provided. However, impacts can be expected in FY 2006, FY 2007 and FY 2008.