

HOUSE BILL NO. 481

INTRODUCED BY T. BELCOURT

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A BILL FOR AN ACT ENTITLED: "AN ACT DESIGNATING REGIONAL WATER AUTHORITIES AS PUBLIC ENTITIES FOR THE PURPOSE OF ACQUIRING RIGHTS-OF-WAY ON CERTAIN STATE LANDS; AND AMENDING SECTIONS 77-2-103 AND 77-2-351, MCA."

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

Section 1. Section 77-2-103, MCA, is amended to read:

"77-2-103. Processing of application. (1) Upon the filing of an application and plats, the department shall, whenever it considers it necessary, examine the proposed right-of-way and report its findings to the board. The board shall consider the application and report and take any action it considers proper, including the fixing of compensation and damages to be paid to the state. The compensation must be the full market value of the estate or interest disposed of through the granting of the right-of-way easement, and the damages must be the actual damages resulting to the remaining land as nearly as they can be ascertained. If the right-of-way is granted according to the plat, the plat is the official plat of the right-of-way and must be retained in the office of the department.

(2) If the state land over or through which a right-of-way is applied for is under certificate of purchase or sales contract, the purchaser or the purchaser's assignee must be made a party to the proceedings and the purchaser's or assignee's consent in writing to the laying out and establishment of the proposed highway, street, or other easement and to the amount of compensation and damages to be paid must be filed with the board before the right-of-way is granted. The board is the judge of how much compensation and damages must be paid to the state and applied on the certificate of purchase or sales contract and of how much, if any, must be paid to the purchaser, as the circumstances in each individual case warrant. This subsection applies to all grants of rights-of-way on state lands.

(3) If the purpose of the right-of-way applied for is a regional water authority provided for in Title 75, chapter 6, part 3, the provisions of 77-2-351 related to public entities apply."

Section 2. Section 77-2-351, MCA, is amended to read:



1 **"77-2-351. Sale to or exchange of property with public entity.** Notwithstanding any other section in
2 this chapter, any lands may be sold to or exchanged for other land or for other consideration with another public
3 entity on terms and in a manner that the board, after consultation with the appropriate legislative committee, may
4 determine to be in the state's best interest, subject to The Enabling Act and constitutional restrictions. In the case
5 of land that is not granted to or held by the state in trust for the support of the common schools, for a state
6 institution, or for another specific purpose, the board may accept as partial or total consideration for the transfer
7 of the land a binding commitment by the transferee to use the property to provide a community service or a
8 benefit that fulfills a public purpose. The sale or exchange of the property may not be finally concluded until 60
9 days' public notice of the terms of the proposed sale or exchange has been given. As used in this section, "public
10 entity" means any county, city, municipal corporation, school district, regional water authority provided for in Title
11 75, chapter 6, part 3, or special improvement or taxing district."

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