

HOUSE BILL NO. 440

INTRODUCED BY D. KARY

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DISTRIBUTION OF CERTAIN HUNTING LICENSE MONEY FROM FUNDING WILDLIFE HABITAT TO FUNDING HUNTING ACCESS EASEMENTS; CREATING A HUNTING ACCESS EASEMENT ACCOUNT TO PROCURE LAND ACCESS EASEMENTS ACROSS PRIVATE LANDS TO ADJOINING PUBLIC LANDS; REQUIRING A REPORT TO THE LEGISLATURE; REVISING A REQUIREMENT RELATED TO DEPARTMENT ACQUISITION AND SALE OF LAND OR WATER; AMENDING SECTIONS 87-1-209 AND 87-1-242, MCA; AND PROVIDING A TERMINATION DATE."

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

**NEW SECTION. Section 1. Hunting access easement account.** (1) There is a hunting access easement account in the state special revenue fund.

(2) The department shall deposit into the hunting access easement account funds dedicated for the procurement of land access easements across private lands to adjoining public lands under 87-1-242.

(3) The department shall report to the fish and game committees of each house of the legislature concerning hunting access easement procurement activities undertaken pursuant to 87-1-242 and this section.

**Section 2.** Section 87-1-209, MCA, is amended to read:

**"87-1-209. (Temporary) Acquisition and sale of land or water.** (1) Subject to 87-1-218, 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 land or water for the purposes listed in this subsection. Any acquisition of land or water rights for purposes of this subsection, ~~except that portion of acquisitions made with funds provided under 87-1-242(1),~~ must include an additional 20% above the purchase price to be used for maintenance of land or water acquired by the department. The additional amount above the purchase price or \$300,000, whichever is less, must be deposited in the account established in 87-1-230. As used in this subsection, "maintenance" means that term as defined in and consistent with the good neighbor policy in 23-1-127(2). The department may develop, operate, and maintain acquired land or water rights:



- 1 (a) for fish hatcheries or nursery ponds;
- 2 (b) as land or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or
- 3 protection;
- 4 (c) for public hunting, fishing, or trapping areas;
- 5 (d) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing
- 6 animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;
- 7 (e) for state parks and outdoor recreation;
- 8 (f) to extend and consolidate by exchange, land or water rights suitable for these purposes.

9 (2) The department, with the consent of the commission, may acquire by condemnation, as provided in

10 Title 70, chapter 30, land or structures for the preservation of historical or archaeological sites that are threatened

11 with destruction or alteration.

12 (3) (a) Subject to section 2(3), Chapter 560, Laws of 2005, the department, with the consent of the

13 commission, may dispose of land and water rights acquired by it on those terms after public notice as required

14 by subsection (3)(b) of this section, without regard to other laws that provide for sale or disposal of state land and

15 with or without reservation, as it considers necessary and advisable. The department, with the consent of the

16 commission, may convey department land and water rights for full market value to other governmental entities

17 or to adjacent landowners without regard to the requirements of subsection (3)(b) or (3)(c) if the land is less than

18 10 acres or if the full market value of the interest to be conveyed is less than \$20,000. When the department

19 conveys land or water rights to another governmental entity or to an adjacent landowner pursuant to this

20 subsection, the department, in addition to giving notice pursuant to subsection (3)(b), shall give notice by mail

21 to the landowners whose property adjoins the department property being conveyed.

22 (b) Subject to section 2(3), Chapter 560, Laws of 2005, notice of sale describing the land or water rights

23 to be disposed of must be published once a week for 3 successive weeks in a newspaper with general circulation

24 printed and published in the county where the land or water right is situated or, if a newspaper is not published

25 in that county, then in any newspaper with general circulation in that county.

26 (c) The notice must advertise for cash bids to be presented to the director within 60 days from the date

27 of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal

28 to 10% of the amount bid. The highest bid must be accepted upon payment of the balance due within 10 days

29 after mailing notice by certified mail to the highest bidder. If that bidder defaults on payment of the balance due,

30 then the next highest bidders must be similarly notified in succession until a sale is completed. Deposits must be

1 returned to the unsuccessful bidders except bidders defaulting after notification.

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

6 (4) When necessary and advisable for the management and use of department property, the director  
7 is authorized to grant or acquire from willing sellers right-of-way easements for purposes of utilities, roads,  
8 drainage facilities, ditches for water conveyance, and pipelines if the full market value of the interest to be  
9 acquired is less than \$20,000. Whenever possible, easements must include a weed management plan. Approval  
10 of the commission is not required for grants and acquisitions made pursuant to this subsection. In granting any  
11 right-of-way pursuant to this subsection, the department shall obtain a fair market value, but the department is  
12 not otherwise required to follow the disposal requirements of subsection (3). The director shall report any  
13 easement grant or acquisition made pursuant to this subsection to the commission at its next regular meeting.

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

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

22 (7) The department is authorized to enter into leases of land under its control in exchange for services  
23 to be provided by the lessee on the leased land. (Terminates June 30, 2013--sec. 8, Ch. 427, L. 2009.)

24 **87-1-209. (Effective July 1, 2013) Acquisition and sale of lands or waters.** (1) Subject to 87-1-218,  
25 the department, with the consent of the commission and, in the case of land acquisition involving more than 100  
26 acres or \$100,000 in value, the approval of the board of land commissioners, may acquire by purchase, lease,  
27 agreement, gift, or devise and may acquire easements upon lands or waters for the purposes listed in this  
28 subsection. The department may develop, operate, and maintain acquired lands or waters:

29 (a) for fish hatcheries or nursery ponds;

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

1 protection;

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

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

5 (e) for state parks and outdoor recreation;

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

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

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

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

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

30 (d) The department shall reserve the right to reject any bids that do not equal or exceed the full market

1 value of the lands and waters as determined by the department. If the department does not receive a bid that  
 2 equals or exceeds fair market value, it may then sell the lands or water rights at private sale. The price accepted  
 3 on any private sale must exceed the highest bid rejected in the bid process.

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

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

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

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

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23 **Section 3.** Section 87-1-242, MCA, is amended to read:

24 **"87-1-242. Funding for ~~wildlife habitat~~ hunting access easements and wildlife habitat**  
 25 **maintenance.** (1) The amount of money specified in this subsection from the sale of each hunting license or  
 26 permit listed must be used exclusively by the commission to ~~secure, develop, and maintain wildlife habitat~~  
 27 ~~negotiate and procure hunting access easements and to maintain wildlife habitat~~, subject to appropriation by the  
 28 legislature:

29 (a) Class B-10, nonresident combination, \$77;

30 (b) Nonresident antelope, \$20;

- 1 (c) Nonresident moose, \$20;  
 2 (d) Nonresident mountain goat, \$20;  
 3 (e) Nonresident mountain sheep, \$20;  
 4 (f) Class D-1, nonresident mountain lion, \$20;  
 5 (g) Nonresident black bear, \$20;  
 6 (h) Nonresident wild turkey, \$10;  
 7 (i) Class AAA, combination sports, \$7;  
 8 (j) Class B-11 nonresident deer combination, \$200.

9 (2) Twenty percent of any increase in the fee for the Class B-7 license or any license or permit listed in  
 10 subsection (1) must be allocated for use as provided in subsection (1).

11 (3) Eighty percent of the money allocated by this section, together with the interest and income from the  
 12 money, must be used to ~~secure wildlife habitat pursuant to 87-1-209~~ negotiate and procure hunting access  
 13 easements across private lands to adjoining public lands that are identified by the department as priority lands  
 14 in need of public access. The amount of money from the sale of each hunting license or permit specified in  
 15 subsection (1) must be deposited in the account provided for in [section 1].

16 (4) Twenty percent of the money allocated by this section must be used as follows:

17 (a) up to 50% a year may be used for development and maintenance of real property used for wildlife  
 18 habitat; and

19 (b) the remainder and any money not allocated for development and maintenance under subsection  
 20 (4)(a) by the end of each odd-numbered fiscal year must be credited to the account created by 87-1-601(5) for  
 21 use in the manner prescribed for the development and maintenance of real property used for wildlife habitat."  
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23 **NEW SECTION. Section 4. Codification instruction.** [Section 1] is intended to be codified as an  
 24 integral part of Title 87, chapter 1, part 2, and the provisions of Title 87, chapter 1, part 2, apply to [section 1].  
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26 **NEW SECTION. Section 5. Termination.** [This act] terminates June 30, 2015.

27 - END -