

1 HOUSE BILL NO. 440

2 INTRODUCED BY KARY, ANKNEY, DOANE, GALT, HARRIS, KERNS, KNUDSEN, LANG, MILLER,
3 RANDALL, REDFIELD, SHAW

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DISTRIBUTION OF CERTAIN HUNTING LICENSE
6 MONEY FROM FUNDING WILDLIFE HABITAT TO FUNDING HUNTING ACCESS EASEMENTS; CREATING
7 A HUNTING ACCESS EASEMENT ACCOUNT TO PROCURE LAND ACCESS EASEMENTS ACROSS
8 PRIVATE LANDS TO ADJOINING PUBLIC LANDS; REQUIRING A REPORT TO THE LEGISLATURE;
9 REVISING A REQUIREMENT RELATED TO DEPARTMENT ACQUISITION AND SALE OF LAND OR WATER;
10 AMENDING SECTIONS 87-1-209, 87-1-230, AND 87-1-242, MCA; AND PROVIDING A TERMINATION DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 NEW SECTION. **Section 1. Hunting access easement account.** (1) There is a hunting access
15 easement account in the state special revenue fund.

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

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

20
21 **Section 2.** Section 87-1-209, MCA, is amended to read:

22 **"87-1-209. (Temporary) Acquisition and sale of land or water.** (1) Subject to 87-1-218, the
23 department, with the consent of the commission and, in the case of land acquisition involving more than 100
24 acres or \$100,000 in value, the approval of the board of land commissioners, may acquire by purchase, lease,
25 agreement, gift, or devise and may acquire easements upon land or water for the purposes listed in this
26 subsection. Any acquisition of land or water rights for purposes of this subsection, ~~except that portion of~~
27 ~~acquisitions made with funds provided under 87-1-242(1),~~ must include an additional 20% above the purchase
28 price to be used for maintenance of land or water acquired by the department. The additional amount above the
29 purchase price or \$300,000, whichever is less, must be deposited in the account established in 87-1-230. As used
30 in this subsection, "maintenance" means that term as defined in and consistent with the good neighbor policy in

1 23-1-127(2). The department may develop, operate, and maintain acquired land or water rights:

2 (a) for fish hatcheries or nursery ponds;

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

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

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

8 (e) for state parks and outdoor recreation;

9 (f) to extend and consolidate by exchange, land or water rights suitable for these purposes.

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

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

23 (b) Subject to section 2(3), Chapter 560, Laws of 2005, notice of sale describing the land or water rights
24 to be disposed of must be published once a week for 3 successive weeks in a newspaper with general circulation
25 printed and published in the county where the land or water right is situated or, if a newspaper is not published
26 in that county, then in any newspaper with general circulation in that county.

27 (c) The notice must advertise for cash bids to be presented to the director within 60 days from the date
28 of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal
29 to 10% of the amount bid. The highest bid must be accepted upon payment of the balance due within 10 days
30 after mailing notice by certified mail to the highest bidder. If that bidder defaults on payment of the balance due,

1 then the next highest bidders must be similarly notified in succession until a sale is completed. Deposits must be
2 returned to the unsuccessful bidders except bidders defaulting after notification.

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

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

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

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

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

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

30 (a) for fish hatcheries or nursery ponds;

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

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

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

6 (e) for state parks and outdoor recreation;

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

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

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

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

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

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

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

13 (5) The department shall convey lands and water rights without covenants of warranty by deed executed
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 18 fur-bearing animals and game and nongame birds may breed and replenish and areas that provide access to
 19 fishing sites for the public. The total cost of installment contracts may not exceed the cost of purchases authorized
 20 by the department and appropriated by the legislature.

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

23

24 **SECTION 3. SECTION 87-1-230, MCA, IS AMENDED TO READ:**

25 **"87-1-230. (Temporary) Maintenance account -- annual report.** (1) There is a maintenance account
 26 in the state special revenue fund. In addition to the funds set aside for maintenance of land or water acquired by
 27 the department pursuant to 87-1-209(1), the department shall also deposit into the maintenance account:

28 (a) funds dedicated for development and maintenance of real property used for wildlife habitat under
 29 87-1-242~~(4)(a)~~(5)(a);

30 (b) interest earned on the account; and

1 (c) any other money that the department considers appropriate or necessary for maintenance of the
2 department's land or water.

3 (2) Funds deposited in the account are statutorily appropriated, as provided in 17-7-502, to the
4 department and may be used only for maintenance of any land or water acquired by the department.

5 (3) (a) The department shall provide an annual report regarding deposits into and withdrawals from the
6 account established in subsection (1) to the oversight subcommittee of the environmental quality council for the
7 purpose of demonstrating the use of funds in the account toward the good neighbor policy.

8 (b) The report must describe the types of maintenance completed by fish, wildlife, and parks region and
9 maintenance plans for the subsequent fiscal year.

10 (c) The report is due to the environmental quality council by September 1 following the end of each fiscal
11 year. (Terminates June 30, 2013--sec. 8, Ch. 427, L. 2009.)"

12

13 **Section 4.** Section 87-1-242, MCA, is amended to read:

14 **"87-1-242. Funding for ~~wildlife habitat~~ hunting access easements and wildlife habitat**
15 **maintenance.** (1) The amount of money specified in this subsection from the sale of each hunting license or
16 permit listed must be used exclusively by the commission to ~~secure, develop, and maintain wildlife habitat~~
17 ~~negotiate and procure hunting access easements and to SECURE, DEVELOP, AND maintain wildlife habitat;~~ IN
18 ACCORDANCE WITH THIS SECTION AND subject to appropriation by the legislature:

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

20 (b) Nonresident antelope, \$20;

21 (c) Nonresident moose, \$20;

22 (d) Nonresident mountain goat, \$20;

23 (e) Nonresident mountain sheep, \$20;

24 (f) Class D-1, nonresident mountain lion, \$20;

25 (g) Nonresident black bear, \$20;

26 (h) Nonresident wild turkey, \$10;

27 (i) Class AAA, combination sports, \$7;

28 (j) Class B-11 nonresident deer combination, \$200.

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

