

HOUSE BILL NO. 540

INTRODUCED BY M. NOLAND

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO AQUATIC INVASIVE SPECIES; ESTABLISHING WATER BASIN PLANNING COMMITTEES; ESTABLISHING AN INVASIVE SPECIES COUNCIL TO OVERSEE ADMINISTRATION OF THE AQUATIC INVASIVE SPECIES ACT; PROVIDING POWERS AND DUTIES; AND AMENDING SECTIONS 80-7-1003, 80-7-1004, 80-7-1005, 80-7-1006, 80-7-1007, 80-7-1008, 80-7-1009, 80-7-1011, 80-7-1015, 80-7-1017, AND 80-7-1018, MCA."

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

NEW SECTION. Section 1. Water basin planning committees. (1) There is established a water basin

planning committee for each of the following:

(a) the Columbia River basin, encompassing the Lincoln, Flathead, Green Mountain, Eastern Sanders, Lake, Mineral, Missoula, Bitterroot, Deer Lodge, North Powell, and Granite conservation districts;

(b) the upper Missouri River basin, encompassing the Beaverhead, Ruby Valley, Mile High, Jefferson Valley, Madison, Gallatin, Broadwater, Meagher, Lewis and Clark, Glacier, Toole, Liberty, Pondera, Cascade, Teton, and Chouteau conservation districts;

(c) the lower Missouri River basin, encompassing the Hill, Big Sandy, Judith Basin, Upper Musselshell, Fergus, Blaine, Phillips, Petroleum, Lower Musselshell, Garfield, Valley, Daniels, Roosevelt, Sheridan, and McCone conservation districts; and

(d) the Yellowstone River basin, encompassing the Richland, Dawson, Prairie, Wibaux, Custer, Little Beaver, Carter, Powder River, Rosebud, Treasure, Big Horn, Yellowstone, Carbon, Stillwater, Park, and Sweet Grass conservation districts.

(2) Each of the water basin planning committees are composed of:

(a) one supervisor elected from each conservation district included in the basin pursuant to subsection (1);

(b) the regional supervisor of each department of fish, wildlife, and parks region located in the basin or a designee;

(c) a representative of each tribal government located in the basin;



1 (d) one member of the house of representatives who represents a district that is primarily located in the
2 basin and is appointed by the speaker of the house;

3 (e) one member of the senate who represents a district that is primarily located in the basin and is
4 appointed by the president of the senate; and

5 (f) one representative of each of the following, appointed by the governor:

6 (i) a wildlife organization;

7 (ii) a commercial interest;

8 (iii) a hydroelectric company; and

9 (iv) a nonprofit organization.

10 (3) Each water basin planning committee shall submit recommendations to the invasive species council,
11 established in [section 2], regarding the prioritization of needs within its basin for the prevention and control of
12 aquatic invasive species.

13

14 **NEW SECTION. Section 2. Invasive species council.** (1) There is an invasive species council within
15 the department of natural resources and conservation. The council is attached to the department for
16 administrative purposes only, as prescribed in 2-15-121. However, 2-15-121(2)(d) does not apply, and the board
17 may hire its own personnel and prescribe their duties and compensation.

18 (2) The invasive species council consists of:

19 (a) two representatives from each water basin planning committee established in [section 1] as elected
20 by the members of the respective committee. However, a legislator may not be elected to serve on the council.

21 (b) one member nominated by the Montana association of conservation districts and appointed by the
22 governor; and

23 (c) the directors of the departments of natural resources and conservation, agriculture, transportation,
24 and fish, wildlife, and parks, or their designees, who are ex officio members.

25 (3) The council shall seek active input and participation in its deliberations from the regional director of
26 the U.S. army corps of engineers, the regional director of the U.S. department of agriculture animal and plant
27 health inspection service, the state conservationist for the U.S. department of agriculture natural resources
28 conservation service, the regional administrator of the U.S. forest service, and the regional administrator of the
29 U.S. department of the interior, or their designees.

30 (4) The council may enter into contracts.

1 (5) Members of the council must be compensated and reimbursed pursuant to 2-15-122(5).

2 (6) A majority of the membership of the council constitutes a quorum to do business. A favorable vote
3 of at least a majority of all of the members is required to adopt any resolution, motion, or other decision, unless
4 otherwise provided by law.

5 (7) The council shall elect a presiding officer.

6

7 **Section 3.** Section 80-7-1003, MCA, is amended to read:

8 **"80-7-1003. Definitions.** As used in this part, the following definitions apply:

9 (1) "Council" means the invasive species council established in [section 2].

10 ~~(1)(2)~~ "Departments" means the department of agriculture, the department of fish, wildlife, and parks,
11 the department of natural resources and conservation, and the department of transportation.

12 ~~(2)(3)~~ "Equipment" means an implement or machinery that has been wholly or partially immersed in
13 surface waters, including but not limited to boat lifts, trailers transporting vessels, floating docks, pilings, dredge
14 pipes, and buoys.

15 ~~(3)(4)~~ "Invasive species" means, upon ~~the mutual agreement of the directors of the departments~~
16 designation by the council, a nonnative, aquatic species that has caused, is causing, or is likely to cause harm
17 to the economy, environment, recreational opportunities, or human health.

18 ~~(4)(5)~~ "Invasive species management area" means a designation made by a department under
19 80-7-1008 for a specific area or for a body or bodies of water for a specific or indeterminate amount of time that
20 regulates invasive species or potential carriers of invasive species within the boundaries of that area.

21 ~~(5)(6)~~ "Person" means an individual, partnership, corporation, association, limited partnership, limited
22 liability company, governmental subdivision, agency, or public or private organization of any character.

23 ~~(6)(7)~~ "Vessel" has the meaning provided in 61-1-101."
24

25 **Section 4.** Section 80-7-1004, MCA, is amended to read:

26 **"80-7-1004. Invasive species account.** (1) There is an invasive species account in the state special
27 revenue fund. The account is administered by the ~~department of fish, wildlife, and parks~~ council.

28 (2) Money transferred from the general fund or received from any other lawful source, including but not
29 limited to gifts, grants, donations, securities, or other assets, public or private, may be deposited in the account.

30 (3) Subject to subsection (4), money deposited in the account must be used for projects that prevent or

1 control any nonnative, aquatic invasive species pursuant to this part.

2 (4) Any private contribution deposited in the account for a particular purpose, as stated by the donor,
3 must be used exclusively for that purpose.

4 (5) Any interest and earnings on the account must be retained in the account."
5

6 **Section 5.** Section 80-7-1005, MCA, is amended to read:

7 **"80-7-1005. Cooperative agreement for invasive species detection and control.** (1) In order to
8 implement, administer, and accomplish the purposes of this part, the departments, at the direction of the council,
9 ~~collectively or individually,~~ shall, collectively or individually, enter into a cooperative agreement with each other
10 or may enter into an agreement with any person with the appropriate expertise and administrative capacity to
11 perform the obligations of the agreement.

12 ~~(2) Prior to entering an agreement with a person other than a department, the departments shall work~~
13 ~~in collaboration with each other to coordinate their respective responsibilities in order to further the purposes of~~
14 ~~this part.~~

15 ~~(3)~~(2) A cooperative agreement may include provisions for funding to implement the agreement."
16

17 **Section 6.** Section 80-7-1006, MCA, is amended to read:

18 **"80-7-1006. Departmental Council and departmental responsibilities.** (1) The ~~departments~~ council
19 shall prepare a list of invasive species and identify those departments and other public agencies with jurisdiction
20 over each species on the list. The jurisdiction of each department for the prevention and control of invasive
21 species is according to the department's powers and duties as established by law.

22 (2) For those invasive species under the jurisdiction of more than one department, the ~~departments with~~
23 ~~jurisdiction, through cooperative agreement,~~ council shall seek to clarify and coordinate ~~their~~ the respective
24 responsibilities of the departments with jurisdiction through cooperative agreement.

25 (3) Working in collaboration with each other, the council and the departments, ~~individually or collectively,~~
26 shall develop and adopt an invasive species strategic plan or plans to accomplish the purposes of this part. The
27 plan or plans shall identify and prioritize threats and determine appropriate actions, in the following order of
28 priority, related to:

29 (a) public awareness and education;

30 (b) prevention and detection of invasive species, including the use of invasive species management

1 areas authorized under 80-7-1008 and the statewide invasive species management area established in
2 80-7-1015;

3 (c) management, control, and restoration of infested areas; and

4 (d) emergency response.

5 (4) The departments shall enforce quarantine regulations and measures imposed by law or rule in an
6 invasive species management area established under 80-7-1008 and in the statewide invasive species
7 management area established in 80-7-1015, including the mandatory inspection of any interior portion of a vessel
8 or equipment that may contain water for the presence of an invasive species.

9 (5) The departments, with concurrence from the council, may designate employees to carry out the
10 provisions of this part.

11 (6) The ~~department of fish, wildlife, and parks~~ council shall authorize a request by another entity to
12 operate a check station pursuant to this part if the entity agrees to the conditions of an agreement established
13 by all parties, any cooperative funding requirements, and rules adopted under this part. The department of fish,
14 wildlife, and parks ~~retains oversight authority over~~ shall provide oversight for the operation of a check station
15 pursuant to this subsection.

16 (7) The departments, in conjunction with the council, shall implement education and outreach programs
17 that increase public knowledge and understanding of prevention, early detection, and control of invasive species."
18

18

19 **Section 7.** Section 80-7-1007, MCA, is amended to read:

20 **"80-7-1007. Rulemaking authority.** (1) Unless otherwise provided in Title 81, chapters 2 and 7, or this
21 chapter; and subject to the approval of the council, each of the departments may adopt rules for the prevention,
22 early detection, and control of invasive species under the departments' jurisdiction, including rules for the:

23 (a) implementation of the invasive species strategic plan adopted pursuant to 80-7-1006;

24 (b) transportation of an invasive species or any agent likely to be a carrier of an invasive species;

25 (c) designation, regulation, and treatment of an invasive species management area under 80-7-1008,
26 including rules pertaining to:

27 (i) the use of quarantine regulations and measures;

28 (ii) the movement of vessels and equipment within, to, or from the area; and

29 (iii) the inspection and cleaning of vessels and equipment moving within, to, or from the area; and

30 (d) manner in which vessels and equipment, including bilges, livewells, bait containers, and other

1 boating-related equipment, traveling in the state must be cleaned to ensure that they are free from the presence
2 of an invasive species.

3 (2) ~~The Subject to approval of the council,~~ the departments shall adopt rules for the administration of the
4 statewide species management area established in 80-7-1015, including rules specifying the method or methods
5 for preventing the introduction or further introduction of invasive species into the state, and shall adopt rules for:

6 (a) the use of quarantine measures;

7 (b) the movement of vessels and equipment into the state; and

8 (c) the manner in which check stations will be used to inspect, clean, and decontaminate vessels and
9 equipment moving into the state."

10

11 **Section 8.** Section 80-7-1008, MCA, is amended to read:

12 **"80-7-1008. Invasive species management area -- authorization.** (1) Except as provided in 80-7-1015,
13 when an invasive species is identified as infesting or threatening an area, the department with jurisdiction over
14 that invasive species may, with approval of the council, designate and administer an invasive species
15 management area for a specific area of land or for a body or bodies of water for a specific or indeterminate
16 amount of time to prevent and control the infestation or spread of that invasive species.

17 (2) To the extent practicable, prior to the designation of an invasive species management area, the
18 department making the designation shall coordinate with the council and all of the departments in order to further
19 the purposes of this part.

20 (3) The designation of an invasive species management area must specify:

21 (a) the invasive species present or considered threatening; and

22 (b) the method or methods for preventing the introduction of the species or controlling or eradicating the
23 species, including regulations pertaining to:

24 (i) the use of quarantine measures;

25 (ii) the movement of vessels and equipment within, to, and from the area; and

26 (iii) whether check stations will be used to inspect and clean vessels and equipment moving within, to,
27 or from the area. ~~A department may conduct mandatory~~ Mandatory inspections of any interior portion of a vessel
28 or equipment that may contain water may occur only if ~~the department has included~~ the use of mandatory
29 inspections is included as part of quarantine measures established pursuant to subsection (3)(b)(i).

30 (4) As far as practical, signs indicating that an invasive species management area is in place must be

1 posted in an effective manner at access points to the designated area and along the boundaries and within the
2 area. The signs must include information about the specific regulations that apply to the area. ~~The signs must~~
3 ~~be paid for with funds from the invasive species account established in 80-7-1004.~~ The departments may
4 coordinate with any other governmental entity for the posting of signs."
5

6 **Section 9.** Section 80-7-1009, MCA, is amended to read:

7 **"80-7-1009. Arrangements with landowners.** (1) The department designating an invasive species
8 management area pursuant to 80-7-1008 shall work cooperatively with any affected land managers and
9 landowners within the boundaries of the designated area to establish prevention, treatment, control, and
10 eradication methods best suited for the invasive species infesting or threatening the area.

11 (2) If negotiations with a land manager or landowner fail, the designating department may, with approval
12 of the council, arrange for the prevention, treatment, control, and eradication of the designated species as it
13 relates to water infrastructure, including but not limited to hydroelectric, municipal, recreational, and irrigation
14 equipment, without the consent of the land manager or landowner. To the extent possible, the arrangements by
15 the department must be made in a manner best suited to preventing, treating, controlling, and eradicating the
16 invasive species, while minimizing disturbances and adverse impacts to the landowner."
17

18 **Section 10.** Section 80-7-1011, MCA, is amended to read:

19 **"80-7-1011. Check stations.** (1) The departments, with the approval of the council, shall establish a
20 check station within or adjacent to an invasive species management area to prevent the introduction, importation,
21 infestation, and spread of the invasive species for which the designation was issued.

22 (2) At a check station established under subsection (1), the council, council designees, and departments
23 may examine vessels and equipment for the presence of an invasive species and compliance with regulations
24 imposed under 80-7-1008(3)(b) and with this section. ~~A department may examine~~ Examination of any interior
25 portion of a vessel or equipment that may contain water, including bilges, livewells, and bait containers, for
26 compliance may occur only if inspection of interior portions is included as part of quarantine measures established
27 pursuant to 80-7-1008(3)(b)(i).

28 (3) The owner, operator, or person in possession of a vessel or equipment shall stop at any check station
29 unless a medical emergency makes stopping likely to result in death or serious bodily injury.

30 (4) If during an inspection of a vessel or equipment the presence of an invasive species is detected, that

1 vessel or equipment may not leave the check station without authorization until it is cleaned and decontaminated
2 in a manner established in accordance with 80-7-1008(3)(b). The council, council designee, or department
3 making the inspection shall make every effort to ensure decontamination of the vessel or equipment as
4 expeditiously as possible."
5

6 **Section 11.** Section 80-7-1015, MCA, is amended to read:

7 **"80-7-1015. Statewide invasive species management area.** (1) There is established a statewide
8 invasive species management area for the purpose of preventing the introduction, importation, and infestation
9 of invasive species through the mandatory inspection of vessels and equipment at key entry points to the state
10 on a seasonal basis and the mandatory decontamination of any vessel or equipment on or in which an invasive
11 species is detected.

12 (2) To the greatest extent possible, the department of transportation shall cooperate with the department
13 of fish, wildlife, and parks to utilize ports of entry or adjacent department of transportation facilities as locations
14 for check stations established, with approval of the council, pursuant to this section.

15 (3) As far as practical, signs indicating that the statewide invasive species management area is in place
16 must be posted in an effective manner along the boundaries of and within the state. The signs must include
17 information about the specific regulations that apply to the area. ~~The signs must be paid for with funds from the~~
18 ~~invasive species account established in 80-7-1004.~~ The departments may coordinate with any other governmental
19 entity for the posting of signs.

20 (4) At a check station established pursuant to this section, the council, council designees, and
21 departments may examine vessels and equipment for the presence of an invasive species and compliance with
22 this section and rules adopted pursuant to 80-7-1007. ~~A department may examine~~ Examination of any interior
23 portion of a vessel or equipment that may contain water, including bilges, livewells, and bait containers, for
24 compliance may occur only if inspection of interior portions is included as part of quarantine measures established
25 pursuant to rules adopted under 80-7-1007.

26 (5) The owner, operator, or person in possession of a vessel or equipment shall:

27 (a) comply with this section and rules imposed under 80-7-1007; and

28 (b) stop at any check station established pursuant to this section unless a medical emergency makes
29 stopping likely to result in death or serious bodily injury.

30 (6) If during an inspection of a vessel or equipment the presence of an invasive species is detected, that

1 vessel or equipment may not leave the check station without authorization until it is cleaned and decontaminated
2 in a manner established in accordance with rules adopted pursuant to 80-7-1007. The council, council designee,
3 or department making the inspection shall make every effort to ensure decontamination of the vessel or
4 equipment as expeditiously as possible.

5 (7) After use in a body of water within the statewide invasive species management area, all vessels,
6 equipment, bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary
7 systems, must be drained in a way that does not impact any state waters before being transported on land or on
8 a public highway, as defined in 61-1-101, except when allowed by the department of fish, wildlife, and parks."
9

10 **Section 12.** Section 80-7-1017, MCA, is amended to read:

11 **"80-7-1017. Invasive species grant account.** (1) There is an invasive species grant account in the state
12 special revenue fund established in 17-2-102. Subject to appropriation by the legislature, money deposited in the
13 account must be used pursuant to 80-7-1018 and this section.

14 (2) Deposits to the account may include but are not limited to grants, gifts, transfers, bequests,
15 donations, appropriations from any source, and deposits made pursuant to 80-7-1016.

16 (3) Interest and income earned on the account and any unspent or unencumbered money in the account
17 at the end of a fiscal year must remain in the account.

18 (4) Money deposited in the account may be used for costs incurred by the department of natural
19 resources and conservation to administer the provisions of 80-7-1016 through 80-7-1018 on behalf of the council.
20 Except for startup costs incurred in the first year of the program, the administrative costs in any fiscal year,
21 including but not limited to personal services and operations, may not exceed 10% of the total amount of grants
22 and contracts awarded pursuant to 80-7-1018 in the previous fiscal year."
23

24 **Section 13.** Section 80-7-1018, MCA, is amended to read:

25 **"80-7-1018. Invasive species grant program -- criteria -- rulemaking.** (1) Money deposited in the
26 invasive species grant account established in 80-7-1017 may be expended with approval of the council by the
27 department of natural resources and conservation through grants to or contracts with communities or local, state,
28 tribal, or other entities for invasive species management.

29 (2) For the purposes of this section, the term "invasive species management" includes public education
30 and planning, development, implementation, or continuation of a program or project to prevent, research, detect,

1 control, or, where possible, eradicate invasive species.

2 (3) A grant or contract may be awarded under this section for demonstration of and research and public
3 education on new and innovative invasive species management.

4 (4) In ~~making~~ approving grant and contract awards under this section, the ~~department of natural~~
5 ~~resources and conservation~~ council shall give preference to local governments, collaborative stakeholders, and
6 community groups that it determines can most effectively implement programs on the ground.

7 ~~(5) If the governor appoints an advisory council on invasive species, the department of natural resources~~
8 ~~and conservation shall consider recommendations by the advisory council for awards made under this section.~~

9 ~~(6)~~(5) The department of natural resources and conservation is not eligible to receive grants and
10 contracts under this section.

11 ~~(7)~~(6) The department of natural resources and conservation may accept federal funds on behalf of the
12 council for use pursuant to this section.

13 ~~(8)~~(7) Any funds awarded under this section, regardless of when they were awarded, that are not fully
14 expended upon termination of a contract or an extension of a contract, not to exceed 1 year, must revert to the
15 department of natural resources and conservation and be deposited in the invasive species grant account
16 established in 80-7-1017. ~~The department of natural resources and conservation shall use any~~ Any reverted funds
17 must be used to make future awards pursuant to this section.

18 ~~(9)~~(8) The Subject to the approval of the council, the department of natural resources and conservation
19 may adopt rules to administer the provisions of 80-7-1016 through 80-7-1018."
20

21 NEW SECTION. Section 14. Notification to tribal governments. The secretary of state shall send
22 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
23 Chippewa tribe.
24

25 NEW SECTION. Section 15. Codification instruction. [Sections 1 and 2] are intended to be codified
26 as an integral part of Title 2, chapter 15, part 33, and the provisions of Title 2, chapter 15, part 33, apply to
27 [sections 1 and 2].
28

- END -