

HOUSE BILL NO. 627

INTRODUCED BY J. HAMILTON

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT A TIMBER CONSERVATION LICENSE IN LIEU
5 OF HARVEST BE OFFERED FOR EACH TIMBER SALE; DIRECTING THE DEPARTMENT OF NATURAL
6 RESOURCES AND CONSERVATION TO ADOPT RULES IMPLEMENTING SALES OF TIMBER
7 CONSERVATION LICENSES; PROVIDING RULEMAKING CRITERIA; AMENDING SECTIONS 77-5-202 AND
8 77-5-208, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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10 WHEREAS, state law requires that school trust lands be managed to secure the largest measure of
11 legitimate and reasonable advantage to the state; and

12 WHEREAS, trust land must be managed in a manner that best meets the needs of the people and the
13 beneficiaries of the trust; and

14 WHEREAS, management should make the most judicious use of some or all of the land's resources over
15 areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs
16 and conditions while realizing that some land may be used for less than all of the resources; and

17 WHEREAS, timber conservation licenses, if properly administered, will encourage additional competitive
18 bidders to secure legitimate and reasonable advantages to the trust while preserving the timber for a future
19 logging sale or a renewed conservation license.

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

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23 **Section 1.** Section 77-5-202, MCA, is amended to read:

24 **"77-5-202. Agreement with purchaser -- bond.** (1) Upon award of sale the purchaser shall execute
25 a formal agreement, approved by the board, ~~which~~ that describes the area on which the timber is to be cut, the
26 approximate quantity to be cut by species, and the rate for each product of each species. The agreement ~~shall~~
27 must stipulate that all timber ~~shall~~ must be paid for in advance of cutting, fix a date for termination of the
28 agreement, and define rules of silviculture, cutting, utilization, scaling, and slash disposal and ~~such~~ other rules
29 ~~as~~ that in the discretion of the board are essential to the perpetuation of the state forests.

30 (2) (a) Except as provided in subsection (2)(b), as a guarantee for the faithful performance of the

1 agreement, the purchaser ~~shall~~ must be required to furnish a bond, with sufficient sureties, to the state of
2 Montana, in an amount equal to the potential loss to the state, as determined by the department.

3 (b) The bond required under this section must be in an amount equal to:

4 (i) for a timber sale, at least 5% of the estimated value of the timber sold; or

5 (ii) for a timber conservation license, at least 5% of the winning bid."

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7 **Section 2.** Section 77-5-208, MCA, is amended to read:

8 **"77-5-208. Timber conservation license in lieu of sale.** (1) Under the direction of the board and
9 pursuant to subsection (5), the department may shall offer and provide a timber conservation license in lieu of
10 the sale and harvesting of the timber ~~to any person under all of the following conditions:~~

11 ~~(a)(2) During the environmental review process required by Title 75, chapter 1, for a proposed timber~~
12 ~~sale, an interested person shall provide to the department a written request that the department defer the sale~~
13 ~~or a specific portion of the sale and that a timber conservation license for the sale or portion of the sale be~~
14 ~~authorized.~~

15 ~~—— (b) Upon receipt of a written request, the department shall prepare and recommend the timber sale for~~
16 ~~consideration by the board, using the alternatives of the sale with and the sale without a timber conservation~~
17 ~~license provision.~~

18 ~~(c)(3) The department shall solicit bids simultaneously for each alternative authorized by this section to~~
19 ~~ensure that over an extended period of time, the full, long-term, fair market value is secured for the beneficiaries.~~

20 ~~(d)(4) The successful purchaser of a timber conservation license is required to furnish a bond, as~~
21 ~~required by 77-5-202, to ensure the terms of the contract for a timber conservation license.~~

22 ~~(e) The successful purchaser of a timber conservation license is required to pay the fees for forest~~
23 ~~improvement, as required by 77-5-204, that are included in the terms of the sale bid and applicable to the~~
24 ~~issuance of a timber conservation license.~~

25 (5) By March 30, 2020, the department shall adopt rules to implement this section that include a
26 procedure to establish minimum bids for timber conservation licenses that provides:

27 (a) that the term of a timber conservation license is set to encourage multiple bids;

28 (b) that the minimum bid for a timber conservation license must include but is not limited to:

29 (i) timber depreciation and additional timber growth during the term of the license;

30 (ii) consideration that additional licenses may be sold prior to timber being logged; and

1 (iii) other risks and advantages as professionally determined;
2 (c) that the winning bid between bids for a timber sale and a timber conservation license is the bid that
3 is the highest percentage above the minimum bid for either the sale or the conservation license.
4 ~~(2) If a request for the timber sale analysis and authorization of a timber conservation license is not~~
5 ~~submitted to the department prior to the completion of the environmental review process for the sale, as required~~
6 ~~by Title 75, chapter 1, a timber conservation license may not be authorized."~~

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8 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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