

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FISH AND GAME

Call to Order: By **CHAIRMAN KEN MESAROS**, on January 7, 1999 at 3:14 P.M., in Room 402 Capitol.

ROLL CALL

Members Present:

Sen. Ken Mesaros, Chairman (R)
Sen. Mike Taylor, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Al Bishop (R)
Sen. William Crismore (R)
Sen. Steve Doherty (D)
Sen. E.P. "Pete" Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Eve Franklin (D)
Sen. Bea McCarthy (D)
Sen. Jack Wells (R)

Members Excused: Sen. Charles Swysgood (R)

Members Absent: None.

Staff Present: Leanne Kurtz, Legislative Services Division
Adrienne Pillatzke, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 44
Executive Action: SB 44

HEARING ON SB 44

Sponsor: SENATOR ALVIN ELLIS, SD 12, Red Lodge

Proponents: Bud Clinch, Department of Natural Resources and
Conservation
Arnold Olsen, Fish Wildlife and Parks

Van Jamison, Montana Wildlife Federation

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 3:14}

SENATOR ALVIN ELLIS JR., Red Lodge, SD 12, said the state water project bill began entering into the reclamation and leasing program with the Department FWP as early as 1965. Projects were going to be administered by DNRC for the purpose of providing irrigation water to farmers and ranchers, but they were operated and maintained by the local water users association. DNRC maintains water marketing contracts and water purchase contracts with the water users' association. Shortly after the construction of these projects FWP recognized recreation opportunities because of the strategic location, size, and accessibility of some of these reservoirs. DNRC agreed to enter into a no-cost recreation lease with the Department of FWP in order to encourage them to develop camping, fishing, and day use facilities at these reservoirs.

Currently there are eight of these projects with development recreational facilities by the Department of FWP. Irrigation draws down the reservoirs impact slates that were late summer recreation use but does not stop or preclude the reservoirs from providing water-based recreation opportunities that would not normally have them. He said his predecessor in the Senate was instrumental in getting Cooney Reservoir enlarged and refurbished it and may have been one of the first projects and may also be one of the bigger ones at least as far as use is concerned.

Proponents' Testimony:

Bud Clinch, Director of the Department Natural Resources and Conservation, stated the department is charged with the care, custody, management and stewardship of those beautiful resources that we have spoken about. He thanked Senator Ellis for carrying the bill. He said it is a relatively simple bill intended to make the minor change in current statues to facilitate some easier management of the facilities that Senator Ellis mentioned.

The eight reservoir projects in question, are all parts of the development of irrigation land that occurred across Montana dating back to the 1930's. Federal assistance and Montana were eager to help develop the agricultural commodities around Montana. Over the years, while they have been managed for their irrigation potential, there has also been a development of

recreational opportunities on those lakes. Dating back a long period of time there has been a relationship with Department of FWP of managing various facilities at those various reservoirs.

Even though the management of those reservoirs was in the name and the responsibility of DNRC, FWP has had the management responsibility for the recreational facilities at those reservoirs. We have entered into various leases delegating out the responsibility associated with that. In 1993 we transferred responsibility of the cabin sites at various reservoirs around the state from FWP to DNRC and at that time the existing language that we're proposing to amend today was inserted into statute. That language specifically talks about those leases at water projects and a specific cabin site will be for a ten-year duration. When that language was enacted it was enacted primarily with the focus that the cabin sites that were now going to be under DNRC management could all be woven into the new program and DNRC could manage that with new leases in place over the renewal dates. It was unfortunate that no one realized that when that language was inserted that might have some ramifications on the renewal of the existing leases that were in place for the total recreation facilities.

The proposal is to amend the statute to strike the provision referencing the renewal of the cabin site leases in some efficient language that clarifies that the authority to lease the recreational sites by the Department FWP for a term not to exceed thirty years. The reason for this is one of administrative ease. We have been in long term leases with FWP and that has worked well. Some are coming up for renewal and it makes sense to enter into long term leases up to thirty years. From FWP perceptions the project involves a considerable amount of capital investment with federal cost-share dollars and is a provision that they have either fee title ownership of the facilities or long-term leases.

The intent is to bring in-concert with what was in place prior to the 1993 change facilitating some ease of administration allowing the existing relationship that is continuing into the future.

It is important to recognize since reorganization of the old Department of State Lands and the old Department of Natural Resources in one agency. There is confusion when we talk about Department of Natural Resources and Conservation lands. The particular lands in question are water project lands. They're state sovereign lands that were purchased either with state money or with other money, they are not school trust lands nor do they have any of the mandates or various things associated with them that many of us associate with school trust lands.

The department strongly recommended a Do Pass consideration on SB 44.

Arnold Olsen, Chief of operations for the Department Fish Wildlife and Parks submitted **EXHIBIT(fis04a01)**. **Arnold Olsen** stated that Pat Graham sends his regrets that he couldn't be here today. They would share the responsibilities for presenting this bill to the committee. He introduced Doug Munger, State Park director.

Mr. Olsen stated that FWP manages several state parks and fishing access sites across the state. Among the properties there are several DNRC properties, water development sites which are managed for public recreation. Cooney, Tongue River reservoir, Deadman's Basin, Harrison Lake, Martinsdale reservoir and several fishing access sites. FWP does federal matching funds throughout the sites for improvements, they do require long term leases, ownership before they will release those funds so the provision of this bill will help since the law requires that for us to use those resources. The provisions in this bill will allow DNRC to lease project lands for the department up to thirty years. It is beneficial and his department supports SB 44.

Van Jamison, Montana Wildlife Federation, said the federation supports SB 44. We believe that passage of this bill will result in enhanced public recreational opportunity that state water project compared to current law. As a consequence we would urge a Do Pass consideration to SB 44.

Opponents Testimony: None

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 3:25}

SENATOR WELLS asked about the statement that is deleted, the cabin site leases that expired in 1996 have obviously already expired. He asked how the ten year leases that had expired could go back into operation. **Bud Clinch** commented that the concept when we acquired the management of those cabin site leases, were of all various expiration dates. Many went beyond 1996 and the intent was, through this legislation, to make all of those expire prior to that. The department had from the enactment of this which was 1993 to 1996 when all of those were going to be expired to renew those licenses and get those onto a new lease with the DNRC.

SENATOR WELLS then asked if those cabins that are now leased are all on different schedules, are they still limited to 10 years

under the provisions of paragraph two. Also, that would include other cabins that continue to lease from now on but will always be ten years. **Mr. Clinch** replied that is correct. That language is intended to cover those remaining cabin site leases and some other miscellaneous type of leases that the department might have like project lands. For instance, we may have some grazing rentals, project lands, that would fall under that provision.

CHAIRMAN MESAROS asked how they arrived at the thirty-year figure. **Mr. Clinch** answered that has long been known that is a term that is appropriate when entering into leases for projects that involve considerable capital improvement. Even back when many of the existing leases were initiated the initial lease term was thirty years. **Mr. Clinch** entered **EXHIBIT (fis04a02)**. What is relevant is that it lists all of those existing leases and it tells what the current lease term is. Many of those were 20-25 or 30 years and are to expire within the next 5 to 7 years and it is only because we had a change of statutes in 1993 to come up with this cabin site language that we now find the inability to renew those for a longer period of time. It was an oversight when that provision was put in in 1993 due to the cabin sites not realizing it would affect the existing longer term leases in FWP.

SENATOR BECK asked if there was any kind of preference on the thirty-year, lease the renewal after thirty years, for another thirty-year lease so that somebody is not pulling the rug out from under somebody here. **Mr. Clinch** referred to Jack Stolts, Division Administer, he said yes, that is the concept and body in most of our leases.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 3:29}

SENATOR ELLIS stated he closed.

EXECUTIVE ACTION ON SB 44

Motion/Vote: **SEN. CRISMORE** moved **SB 44 DO PASS.** Motion carried unanimously.

ADJOURNMENT

Adjournment: 3:30 P.M.

SEN. KEN MESAROS, Chairman

ADRIENNE PILLATZKE, Secretary

KM/AP

EXHIBIT (fis04aad)