

DNRC 2015 Legislative Proposals

August 19, 2014

Conservation and Resource Development Division

Contracting Legislation for Conservation Districts: This bill establishes and clarifies the process conservation districts will follow for the procurement of engineering services, professional services, and construction contracts. It incorporates procurement procedures in Title 18 and in Title 7 and establishes a process for procurement based on contract amounts set in ARM's established by the Department of Administration.

Removal of Hearing Rules Requirement: Currently, MCA 76-15-208 (1) states that the Department shall adopt appropriate hearing and referenda rules for the creation and alteration of conservation districts. The Department has rules for referenda, but during an audit, it was noted that those rules did not include the conduct of hearings. The statutes and Department procedures clearly describe the procedures for the conduct of hearings making the rules unnecessary. This bill removes the requirement for rules on hearings but keeps the requirement for referenda.

Board of Adjustments: This bill changes the way the Department appoints boards of adjustment to address variance requests to land use ordinance adopted by conservation districts. Currently, a board of adjustments must be appointed for each conservation district that has an ordinance, with members being appointed every year. Since the inception of this law, no board of adjustments have been called, so rather than keep a board appointed at all times, this bill would require the appointment of the board as needed when and if a variance request has been filed.

Act amending the laws related to Premiums in State Bond Sales: Current law allows premiums earned on bond sales to be used only to pay cost of issuance. This bill would allow premiums paid to be used for debt service payment or to pay project costs. This adjustment in state statute would save the state money when General Obligation Bonds or Coal Tax Bonds are sold. This change in statute was recommended by the State Financial Advisor and Bond Counsel.

Act amending State Revolving Fund: This Act amends the State Revolving Fund Program to eliminate loan conditions that are no longer in effect due to change in Federal Statute.

Forestry Division

Revising assessments on owners of classified forest land: DNRC's fire and aviation efforts have broadened because of more fire activity in Montana. Because of the increase in fire the maximum limits in statute are no longer adequate to support the traditional 2/3, 1/3 funding split between general fund and special state revenue. This legislation will adjust landowner fees by \$5 for each landowner in a protection district and 5 cents per acre per year for each acre in excess of 20 acres.

Water Resources Division

Extend and modify the Water Adjudication Account and benchmarks. In order to allow DNRC and the Water Court to finish the next phase of the water rights adjudication. This bill is the product of both DNRC and the Court System. It would modify MCA 85-2-71, -280, and -281. The bill would extend the sunset for the Water Adjudication Account through June 30, 2021. It would also include new benchmarks for DNRC claim examination of exempt from filing claims and reexamination of claims in verified basins and new reporting requirements for both DNRC and the Water Court.

Provide flexibility for water right notices of completions. Currently, if a water right permit or change holder does not file a notice of completion or an extension for their notice of completion within the perfection period on their water right then the permit or change is automatically voided by function of law. This bill would modify MCA 85-2-312. This bill would create a process that would allow a water right holder to file a request to DNRC to have their permit or change reinstated within one year of their notice of completion deadline. The applicant would need to provide evidence that they did not file a notice of completion or an extension as a result of an excusable neglect.

Revise Water Right Public Notice Provisions. This bill would eliminate provisions of the law that conflict with the public notice requirements and timelines for water right application review established in 2009 HB 40. The bill would strike MCA 85-2-307(4). The bill would not change MCA 85-2-307(3) that provides DNRC with the flexibility to require between 15-60 days for public notice.

Trust Lands Division

Allow electronic funds transfer: Current statute only allows for certified checks or cashier's checks to pay for certain lease payments and bid deposits. The Department has taken electronic funds transfers in the past and the Legislative Audit Division has suggested a statutory change is needed to allow for them.

Facilitate cabin and home site sales: After working on the cabin and home site pilot project, the Department discovered the need for several clarifications in statute to facilitate future sales. The bill would allow lessees to fund necessary surveys, clarify issues related to conveying legal access to the sale parcels, and distinguishing the difference in the process of settling the values of improvements between residential and agricultural improvements.

Amend reporting requirements: Change statute to simplify and expand reporting on fiscal performance of trust land assets. Current law requires the production of a report specific to forest management, and contains requirements that lead to a complex series of tables that are not meaningful to the trust beneficiaries or the general public. Changes would call for a report on all asset types rather than only forest management and would utilize the best available economic methodology.

Amend the liability for unauthorized construction of improvements: Recent trespass uses of school trust land have shown that existing penalties for illegal uses are not compensating the trust at full market value, much less providing a disincentive to those actions.

Provide for a limited valuation study to for set certain commercial lease rates: The Department and the Land Board occasionally set a commercial lease or license fee based on something other than an appraisal. In some instances such as a cell phone tower site, the appraised land value doesn't secure the full market value of the use. This change would allow for alternate information to be used when determining an appropriate lease rate such as fee schedules, revenue sharing, and comparable rents.