



# MONTANA LEGISLATIVE BRANCH

## Legislative Fiscal Division

Room 110 Capitol Building \* P.O. Box 201711 \* Helena, MT 59620-1711 \* (406) 444-2986 \* FAX (406) 444-3036

Legislative Fiscal Analyst  
CLAYTON SCHENCK

DATE: February 20, 2008

TO: Members of the Legislative Finance Committee

FROM: Barbara Smith, Fiscal Analyst II

RE: Potential statutory change for purchasing abandoned mine lands

At the December meeting of the Legislative Finance Committee (LFC), an operating plan change was reviewed to provide the funds to allow the Department of Environmental Quality (DEQ) to purchase acreage in the Belt area for the abandoned mine lands program. An issue was because the purchase price was over twice the appraised value without significant justification of such price. This issue in turned raised the question of whether abandoned mine staff with limited land transaction experience, had the expertise to conduct such a transaction. The land transaction was not required by law to go before the Board of Land Commissioners, which has staff with the expertise in transactions of this sort.

The issue for the committee to consider is whether or not land acquisitions by the abandoned mine land program should go before the Board of Land Commissioners for approval. If so, 82-4-371 (3), MCA would need to be amended to require the approval. This would be accomplished by simply inserting the need for approval prior to acquisition of land, as stated below:

“(3) The board, with the approval of the board of land commissioners, may acquire the necessary property by gift or purchase, or if the property cannot be acquired by gift or purchase at a reasonable cost, proceedings may be instituted in the manner provided in Title 70, chapter 30, against all nonaccepting landholders if:

- (a) acquisition of the property is necessary for successful reclamation;
- (b) the acquired property after restoration or reclamation or after abatement, control, or prevention of the adverse effects of past mining practices will serve recreation and historic purposes or conservation and reclamation purposes or provide open space benefits; and
- (c) (i) permanent facilities, such as treatment plants or relocated stream channels, will be constructed on the property for the restoration or reclamation of the property or for abatement, control, or prevention of the adverse effects of past mining practices; or
- (ii) acquisition of refuse disposal sites and all refuse on the sites will serve the purposes of this part in that public ownership is desirable to meet emergency situations and prevent recurrences of the adverse effects of past mining practices. “

The Legislative Finance Committee may wish to:

- o Request a bill draft to require land acquisitions by the abandoned mine land program within the Department of Environmental Quality be subject to approval by the Board of Land Commissioners
- o Draft a letter to the Department of Environmental Quality requesting they seek assistance from the Trust Land Management Division prior to purchasing any land for the abandoned mine lands program