

SENATE BILL NO. 409

INTRODUCED BY STAPLETON, ANDERSON, BALES, BARKUS, BUTCHER, CURTISS, DEPRATU, ESP,
FORRESTER, GILLAN, LAIBLE, LAMBERT, LENHART, MATTHEWS, NOENNIG, A. OLSON, PERRY,
SHEA, F. THOMAS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO STATE LANDS; AUTHORIZING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO CONDUCT CERTAIN INVENTORIES AND ASSESSMENTS; AUTHORIZING THE DEPARTMENT TO CONDUCT LEASE PLANNING; ELIMINATING DUPLICATIVE ENVIRONMENTAL REVIEWS; AMENDING SECTIONS 77-1-121 AND 77-3-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, in August 1996, President Clinton announced an agreement between the federal government and Crown Butte Mines, Incorporated, that resulted in Crown Butte abandoning further development efforts of a gold mine near Yellowstone National Park in exchange for unspecified federal assets; and

WHEREAS, in October 1997, Congress passed legislation providing \$65 million to purchase the Crown Butte holdings and authorizing the transfer of \$10 million of federal mineral properties or the federal mineral rights to the State of Montana as compensation for the economic opportunity lost to the people of Montana as a result of the Crown Butte agreement; and

WHEREAS, the State of Montana notified Secretary of the Interior Babbitt on February 24, 1999, of the State of Montana's selection of certain mineral tracts; and

WHEREAS, the federal government on April 10, 2002, transferred to the State of Montana the mineral title to certain mineral tracts containing 7,623 acres of federal minerals and 533 million tons of federal coal; and

WHEREAS, the property interests acquired from the federal government in the Crown Butte land exchange are a unique asset of the State of Montana, in that those assets represent a concentrated ownership of state mineral interests, rather than isolated properties; and

WHEREAS, the concentrated state mineral ownership dictates that the state take a proactive approach to the leasing and development of the property interests acquired from the federal government in the Crown Butte land exchange; and

WHEREAS, development of the property interests acquired from the federal government in the Crown Butte land exchange presents a tremendous opportunity to create hundreds of new high quality jobs, generate significant long-term sources of revenue for Montana schools, create additional electrical generation capacity to

help meet the growing demand for electricity, and promote associated economic benefits and opportunities; and

WHEREAS, given the proximity of the property interests acquired from the federal government in the Crown Butte land exchange to the Northern Cheyenne Indian Reservation, the State of Montana should continue to ~~productively~~ work with the Northern Cheyenne in facilitating the development of the ~~property~~ STATE COAL interests acquired from the federal government in the Crown Butte land exchange; and

WHEREAS, the State of Montana recognizes the opportunities to export coal to coal-fueled generating plants in order to ~~reverse~~ ADDRESS Montana's current flat coal export market and the projected decline in coal severance tax revenue; and

WHEREAS, the State of Montana recognizes the need to develop new sources of electric power for Montana's consumers, industry, state institutions, rural cooperatives, and export to sustain economic stability and growth; and

WHEREAS, THE STATE OF MONTANA AND THE NORTHERN CHEYENNE HAVE WORKED TOGETHER AND NEGOTIATED THE OTTER CREEK SETTLEMENT AGREEMENT, AND THE STATE RECOGNIZES THE IMPORTANCE OF INVOLVING THE NORTHERN CHEYENNE IN CULTURAL RESOURCE INVENTORIES AND ASSESSMENTS; AND

WHEREAS, the ~~state~~ STATE of Montana recognizes that developing coal-based electrical generation using the property interests in coal resources acquired from the federal government in the Crown Butte land exchange to serve the long-term power needs of both Montana and the western United States and recognizes that the development of coal-based electrical generation AND NECESSARY TRANSMISSION INFRASTRUCTURE provide the opportunity for other development consistent with Montana's economic development policy.

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

NEW SECTION. Section 1. Inventories and assessments. (1) The department may, in consultation with appropriate state agencies AND THE NORTHERN CHEYENNE TRIBE, conduct resource inventories and assessments of all or parts of the property interests acquired from the federal government in the Crown Butte land exchange to assist in the leasing, promotion, and development of those property interests. Those inventories and assessments include but are not limited to:

- (a) cultural resource inventories and assessments;
- (b) coal resource inventories and assessments;
- (c) market analysis of the mineral resources; or
- (d) any other inventories and assessments required by law or that the department determines are

necessary.

(2) The department may place all or parts of the property interests acquired from the federal government in the Crown Butte land exchange up for lease in accordance with the procedures provided for in Title 77.

(3) Nothing in this section prevents the department from receiving applications to place the tracts for lease prior to the completion of inventories and assessments, and the department may lease the property interests acquired from the federal government in the Crown Butte land exchange in accordance with the applicable provisions of Title 77.

(4) NOTHING IN THIS SECTION IS INTENDED TO ALTER, DIMINISH, OR IMPAIR THE OTTER CREEK SETTLEMENT AGREEMENT BETWEEN THE STATE OF MONTANA AND THE NORTHERN CHEYENNE TRIBE, AND NOTHING IN THIS SECTION PREVENTS THE STATE FROM COOPERATING WITH THE NORTHERN CHEYENNE TRIBE TO ENFORCE AIR AND WATER QUALITY STANDARDS THROUGH GOVERNMENT-TO-GOVERNMENT RECIPROCITY AGREEMENTS.

NEW SECTION. Section 2. Planning of lease actions. (1) The department shall manage the property interests acquired from the federal government in the Crown Butte land exchange consistent with 77-3-102 and consult with THE PRIVATE SURFACE OWNERS AND the private mineral owners that control the ~~mineral interests that were not~~ COAL PROPERTY INTERESTS THAT ARE LOCATED IN A CHECKERBOARD ARRANGEMENT WITH THE MINERAL INTERESTS acquired from the federal government in the Crown Butte land exchange in the planning of leasing actions.

(2) Consistent with Title 77, the department's leasing actions must:

- (a) attain the fair market value and ~~maximize~~ OPTIMIZE the monetary return to the public school fund; and
- (b) facilitate and encourage timely development of the property interests acquired from the federal government in the Crown Butte land exchange.

Section 3. Section 77-1-121, MCA, is amended to read:

"77-1-121. Environmental review compliance -- exemptions. (1) ~~The~~ Except as provided in subsection (2), the department and board are required to comply with the provisions of Title 75, chapter 1, parts 1 and 2, when implementing provisions within Title 77 only if the department is actively proposing to issue a sale, exchange, right-of-way, easement, placement of improvement, lease, license, or permit, or is acting in response to an application for an authorization for such a proposal.

(2) The department and board are exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when issuing any lease or license that expressly states that the lease or license is subject to further permitting under

any of the provisions of Title 75 or 82.

~~(2)~~(3) Except for rulemaking and as provided in subsection (1), the department and board are otherwise exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when implementing provisions within Title 77, including but not limited to the issuance of lease renewals. The department and board do not have an obligation to comply with the provisions of Title 75, chapter 1, parts 1 and 2, when implementing provisions within Title 77 if the department or board chooses not to take any action, even though either may have the authority to take an action.

~~(3)~~(4) The department and board are exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when taking actions, including preparing plans or proposals, in relation to and in compliance with the following local government actions:

- (a) development or adoption of a growth policy or a neighborhood plan pursuant to Title 76, chapter 1;
- (b) development or adoption of zoning regulations;
- (c) review of a proposed subdivision pursuant to Title 76, chapter 3;
- (d) actions related to annexation;
- (e) development or adoption of plans or reports on extension of services; and
- (f) other actions that are related to local planning."

Section 4. Section 77-3-301, MCA, is amended to read:

"77-3-301. Coal leases authorized. ~~The~~ In response to an application or on its own initiative, the board may lease in ~~such a manner as that~~ such a manner as that it considers in the best interests of the state any state lands to which the title is vested in the state and in which the coal or coal rights are not reserved by the United States for exploring for, mining, removing, selling, and disposing of the coal ~~therein, upon the terms and conditions herein stated~~ provided in this section and subject to ~~such the rules as that~~ such the rules as that the board prescribes."

NEW SECTION. Section 5. Notification to tribal governments ~~GOVERNMENT.~~ The secretary of state shall send a copy of [this act] to ~~each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa~~ THE NORTHERN CHEYENNE TRIBAL GOVERNMENT.

NEW SECTION. Section 6. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 77, chapter 1, and the provisions of Title 77, chapter 1, apply to [sections 1 and 2].

NEW SECTION. **Section 7. Effective date.** [This act] is effective on passage and approval.

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