

SENATE BILL NO. 8
INTRODUCED BY J. SHOCKLEY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS GOVERNING THE SALE, EXCHANGE, AND TRANSFER OF STATE LAND; REQUIRING THE BOARD OF LAND COMMISSIONERS TO CONTRACT WITH A QUALIFIED LAND APPRAISER AND AN ATTORNEY TO PROVIDE INDEPENDENT INFORMATION AND ANALYSIS AS REQUIRED BY THE BOARD; PROVIDING FOR THE PAYMENT OF CONTRACT EXPENSES FROM THE TRUST LAND ADMINISTRATION ACCOUNT; REQUIRING THE BOARD OF LAND COMMISSIONERS TO USE THE CONTRACTED SERVICES IN THE SALE, PURCHASE, EXCHANGE, AND TRANSFER OF STATE LAND; ~~REVISING THE ROLE OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION IN THE SALE, EXCHANGE, AND TRANSFER OF STATE LAND;~~ AMENDING SECTIONS 77-1-108, 77-1-121, AND 77-1-202, ~~77-1-301, 77-2-213, AND 77-2-214~~; MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 77-1-108, MCA, is amended to read:

"77-1-108. Trust land administration account. (1) There is a trust land administration account in the state special revenue fund. Money in the account is available to the department and the board by appropriation and must be used to pay the costs of administering state trust lands.

(2) Appropriations from the account for each fiscal year may not exceed the sum of 1 1/8% of the book value balance in the nine permanent funds administered by the department on the first day of January preceding the new biennium and 10% of the revenue deposited in the capitol building land grant trust fund in the last-completed fiscal year prior to the new biennium.

(3) Unreserved funds remaining in the account at the end of a fiscal year must be transferred to each of the permanent funds in proportionate shares to each fund's contribution to the account as calculated in 77-1-109(3)."

Section 2. Section 77-1-121, MCA, is amended to read:

"77-1-121. Environmental review compliance -- exemptions. (1) 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~~ DEPARTMENT AND board ~~is~~ ARE actively proposing to ~~issue~~ a sale, exchange, or transfer or if the ~~department~~ is actively proposing to issue a 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~~ an enumerated 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.

(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.

(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 3. Section 77-1-202, MCA, is amended to read:

"77-1-202. Powers and duties of board. (1) The board shall exercise general authority, direction, and control over the care, management, and disposition of state lands and, subject to the investment authority of the board of investments, the funds arising from the leasing, use, sale, and disposition of those lands or otherwise coming under its administration. In the exercise of these powers, the guiding principle is that these lands and funds are held in trust for the support of education and for the attainment of other worthy objects helpful to the well-being of the people of this state as provided in The Enabling Act. The board shall administer this trust to:

- (a) secure the largest measure of legitimate and reasonable advantage to the state; and

(b) provide for the long-term financial support of education.

(2) It is consistent with the powers and duties provided in subsection (1) that the people are entitled to general recreational use of state lands to the extent that the trusts are compensated for the value of the recreation.

(3) When acquiring land for the state, the board shall determine the value of the land after an appraisal by a qualified land appraiser.

(4) (A) The board shall contract with a qualified land appraiser and an attorney to provide independent information and analysis as required by the board. The expenses related to the contracts are payable pursuant to 77-1-108. The contracted services must be used in the sale, PURCHASE, exchange, and transfer of state land, INCLUDING INVESTIGATIONS AND ESTIMATIONS OF VALUE INVOLVED IN PROPOSED LAND EXCHANGES. THE BOARD LAWYER AND APPRAISER SHALL PERFORM OTHER DUTIES AND FUNCTIONS AS DIRECTED BY THE BOARD.

(B) THE BOARD LAWYER SHALL PROVIDE AN INDEPENDENT OPINION, UPON REQUEST BY ANY BOARD MEMBER, ON LAND SALES AND EXCHANGES.

(C) THE QUALIFIED LAND APPRAISER WHO IS UNDER CONTRACT TO THE BOARD UNDER SUBSECTION (4)(A) SHALL CONTRACT WITH REGIONAL APPRAISERS IN THE STATE TO APPRAISE LAND THAT IS UNDER CONSIDERATION FOR SALE, PURCHASE, OR EXCHANGE AND SHALL SUPERVISE THE REGIONAL APPRAISERS' WORK PRODUCT."

~~Section 4. Section 77-1-301, MCA, is amended to read:~~

~~"77-1-301. Powers and duties of the department. (1) Under the direction of the board, the department has charge of the selecting, exchange, classification, appraisal, leasing, and management, sale, or other disposition of the state lands. It The department shall perform such other duties that the board directs, the purpose of the department demands, or the statutes require.~~

~~(2) It The department shall collect and receive all moneys money payable to the state through its office as fees, rentals, royalties, interest, penalties, or payments on mortgages or lands purchased from the state or derived from any other source. It The department shall issue a receipt for each cash payment or whenever requested by the payer."~~

~~Section 5. Section 77-2-213, MCA, is amended to read:~~

~~"77-2-213. Department Board to investigate. When a proposal for an exchange pursuant to 77-2-211 is made and the owners of the respective tracts involved seem agreeable to negotiate such the exchanges, the proposal shall must be referred to the department board and the department board shall thoroughly investigate~~

~~all the lands involved in the proposal and estimate the value of all of the lands and consider every factor in connection with the proposal as that may affect the public interest. The board shall use the contracted services provided for in 77-1-202 in performing the functions required in this section.~~"

~~Section 6.~~ Section 77-2-214, MCA, is amended to read:

~~"**77-2-214. Investigation and findings concerning exchange of land.** (1) The department contractors provided for in 77-1-202 shall, as soon as it concludes its they conclude their investigation thereof, report to the board the facts disclosed by its the investigation and include in its the report a recommendation concerning the proposal, including its the reasons therefor for the recommendation in writing.~~

~~(2) After considering the report and recommendation and making such any further investigation as that it considers advisable, the board shall consider the entire matter, make findings and conclusions concerning the proposal, and make an order:~~

~~(a) rejecting and dismissing the proposal if in the judgment of the board the exchange is not in the public interest; or~~

~~(b) accepting the proposal and ordering the exchange to be made if in the judgment of the board the exchange is in the public interest and should be made:~~

~~(3) An order accepting the proposal shall must contain an accurate description of all lands to be exchanged."~~

NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, 2007.

- END -