

SENATE BILL NO. 452

INTRODUCED BY C. WILLIAMS, BRUEGGEMAN, ERICKSON, HANSEN, HARRINGTON, HAWKS, HENDRICK, W. JONES, LEWIS, LIND, MACLAREN, MCALPIN, MURPHY, NOONAN, NOONEY, POMNICHOWSKI, REINHART, SANDS, SCHMIDT, SQUIRES, STAHL, WANZENRIED, WEINBERG

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE MONTANA WORKING FORESTS, RANCHES, FARMS, AND WATERSHEDS PROGRAM; PROVIDING FOR A WORKING FORESTS, RANCHES, FARMS, AND WATERSHEDS COMMISSION; PROVIDING FOR LOANS, GRANTS, AND MATCHING FUNDS FOR THE PURPOSE OF PURCHASING PROPERTY IN FEE SIMPLE TITLE OR A LESSER INTEREST FOR THE PURPOSE OF PROTECTING AND MAINTAINING WORKING LANDS; PROVIDING DUTIES OF THE COMMISSION; PROVIDING FOR A MONTANA WORKING FORESTS, RANCHES, FARMS, AND WATERSHEDS ACCOUNT TO BE ADMINISTERED BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; PROVIDING THAT PROPERTY DONATED TO THE STATE THROUGH THE MONTANA WORKING FORESTS, RANCHES, FARMS, AND WATERSHEDS PROGRAM MUST BE HELD IN TRUST FOR THE PEOPLE OF MONTANA; PROVIDING MINIMUM CRITERIA THAT MUST BE MET TO RECEIVE A LOAN OR GRANT OR MATCHING FUNDS THROUGH THE MONTANA WORKING FORESTS, RANCHES, FARMS, AND WATERSHEDS PROGRAM; PROVIDING FOR REPAYMENT IF PROPERTY IS SOLD THAT WAS ORIGINALLY PURCHASED WHOLLY OR IN PART WITH FUNDS FROM THE MONTANA WORKING FORESTS, RANCHES, FARMS, AND WATERSHEDS ACCOUNT; PROVIDING RULEMAKING AUTHORITY TO THE COMMISSION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, Montana has a rich heritage of working farms and ranches and possesses unmatched natural wealth and recreational opportunities in the form of forests, mountains, waters, wildlife habitat, and other natural resources; and

WHEREAS, Montanans are increasingly supportive of efforts to conserve the state's working forests, ranches, farms, and watersheds and wildlife habitats; and

WHEREAS, the Legislature recognizes the value of pursuing cooperative partnerships among state agencies, federal agencies, political subdivisions, tribal governments, and nonprofit organizations to maximize land conservation opportunities; and

WHEREAS, the Legislature seeks to establish a program to protect Montana's working forests, ranches, farms, and watersheds and secure the conservation of those lands for future generations.

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

NEW SECTION. Section 1. Short title. [Sections 1 through 11] may be cited as the "Montana Working Forests, Ranches, Farms, and Watersheds Act".

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 11], unless the context requires otherwise, the following definitions apply:

(1) "Acquire" or "acquisition" means the purchase from a willing seller of the fee simple or less than fee simple interests in real property that satisfies the criteria established in [section 7]. Less than fee simple interests in real property may include but are not limited to options, rights of first refusal, conservation easements, leases, and mineral rights.

(2) "Commission" means the Montana working forests, ranches, farms, and watersheds commission established in [section 4].

(3) "Conservation" or "conserve" means protecting or maintaining working lands. The term includes traditional forest MANAGEMENT uses, traditional agricultural uses, and recreational uses that comply with the terms of an approved management plan.

(4) "Department" means the department of natural resources and conservation provided for in 2-15-3301.

(5) "Nonprofit organization" means a private organization:

(a) that qualifies and holds a general tax exemption under the Internal Revenue Code, section 501(c); and

(b) whose organization purposes are designed to emphasize land conservation.

(6) "Political subdivision" means a county, consolidated municipal-county government, city, town, or special improvement district or other political subdivision of state government.

(7) "Program" means the Montana working forests, ranches, farms, and watersheds program established in [section 3].

(8) "RANCHES" AND "FARMS" MEAN AGRICULTURAL LANDS AS PROVIDED FOR IN 15-7-202.

~~(8)~~(9) "Tribal government" means the governing body of a federally recognized Indian tribe located in Montana.

~~(9)~~(10) "Working" means managed to produce a long-term and sustainable flow of forest ~~and~~ PRODUCTS AND CONTINUED GENERATION OF agricultural products and other attributes, such as wildlife habitat, biodiversity, water filtration, nutrient production and storage, and recreational opportunities.

NEW SECTION. Section 3. Montana working forests, ranches, farms, and watersheds program

-- establishment -- purpose. (1) The department shall establish a working forests, ranches, farms, and watersheds program. The program must:

(a) implement the provisions of [sections 1 through 11];

~~(b) PROMOTE HISTORICAL USES OF PROPERTY, INCLUDING COMMON RANCHING, FARMING, AND TIMBER HARVEST ACTIVITIES;~~

~~(b)(c)~~ promote statewide conservation of working forests, ranches, farms, and watersheds; and

~~(e)(d)~~ be directed by and receive oversight from the commission.

(2) The purpose of the program is to:

(a) promote cooperation and communication among entities engaged in activities that protect and maintain Montana forests, ranches, farms, and watersheds in a working condition;

(b) assist with funding to enable state agencies or political subdivisions to purchase a fee simple or lesser interest in real property for the purpose of maintaining a land use that is conducive to conserving Montana's natural resources. ~~Historical uses of property, including common farming and ranching activities and timber harvest, are important management alternatives that must be considered when determining the most appropriate conservation methods to be applied to a piece of property.~~

NEW SECTION. Section 4. Montana working forests, ranches, farms, and watersheds

commission -- composition. (1) There is a Montana working forests, ranches, farms, and watersheds commission. Subject to subsection (2), the commission shall consist of seven Montana citizens appointed by the governor.

(2) The commission membership must include:

(a) the director of the department or the director's designee;

(b) the director of the department of agriculture or the director's designee;

(c) the director of the department of fish, wildlife, and parks or the director's designee; and

(d) four members of the public representing different areas of the state and:

(i) one representing a conservation interest;

(ii) one representing ~~a timber interest~~ FOREST LANDOWNERS;

(iii) one representing ~~an agricultural interest~~ LANDOWNERS; and

(iv) one at-large representative.

(3) Except for the initial appointments, public members of the commission shall serve staggered 4-year

terms. A vacancy on the commission must be filled in the same manner as the original appointment, including geographic representation. The governor shall designate the terms of the initial appointments as either 2-year or 4-year appointments to facilitate staggered terms.

(4) A commissioner may not act on an application submitted by the agency or entity that the commissioner is employed by or holds office in. The ethical and disclosure requirements of 2-2-105 apply.

(5) The commission shall select a presiding officer from among its members. The presiding officer may make motions and vote.

(6) The commission is attached to the department for administrative purposes only as provided in 2-15-121.

(7) Members of the commission may not receive compensation for their services on the commission but must be reimbursed from the program funds for expenses incurred in the performance of commission duties as provided in 2-18-501 through 2-18-503.

NEW SECTION. Section 5. Montana working forests, ranches, farms, and watersheds commission -- duties. (1) The commission shall:

(a) assist with statewide coordination on working forest, ranch, farm, and watershed conservation efforts;

(b) produce an annual accomplishment and financial report;

(c) accept grants, gifts, or devises of money for use in making the loans and grants authorized by [sections 1 through 11];

(d) subject to the minimum criteria provided in [section 7], establish criteria for loans and grants to state agencies and political subdivisions to accomplish the purposes contained in [sections 1 through 11];

(e) establish criteria for matching funds, if any, or other in-kind contributions from grantees;

(f) prioritize project proposals and approve project proposals for funding;

(g) perform other functions consistent with the purposes of [sections 1 through 11] and administration of the program; and

(h) evaluate and approve loan, grant, or matching grant applications on a case-by-case basis.

(2) The commission must receive and shall evaluate applications from state agencies or political subdivisions for projects that conserve working forests, ranches, farms, and watersheds across the state and may receive and evaluate applications from tribal governments or nonprofit organizations for cooperative projects.

NEW SECTION. Section 6. Montana working forests, ranches, farms, and watersheds account.

(1) There is a Montana working forests, ranches, farms, and watersheds account in the state special revenue fund provided for in 17-2-102.

(2) The purpose of the account is to provide funding for the conservation of working forests, ranches, farms, and watersheds.

(3) The account must be administered by the department.

(4) Subject to appropriation and final approval from the commission, the funds in the account may be used for:

(a) loans and grants to state agencies or political subdivisions to fund acquisitions and acquisition transaction costs that meet the program criteria developed pursuant to [section 7];

(b) matching fund grants to state agencies or political subdivisions if the entities meet the criteria developed pursuant to [section 7];

(c) the cost of enforcement of state-held conservation easements pursuant to [section 7];

(d) project costs, including but not limited to appraisals and appraisal review, land surveys, closing costs, establishing baseline information, title work, purchase of title insurance, drafting of agreements, other real estate transaction expenses, and reimbursing counties for loss of property tax revenue; and

(e) administrative costs, including but not limited to personnel and overhead. Funds expended for administration must be kept to a minimum.

(5) FUNDS IN THIS ACCOUNT MAY NOT BE USED FOR FEE SIMPLE TITLE ACQUISITIONS OF WORKING RANCHES AND FARMS.

NEW SECTION. **Section 7. Montana working forests, ranches, farms, and watersheds projects**
-- **minimum criteria.** (1) Projects eligible for funding under the program include acquisitions that conserve working forests, ranches, farms, and watersheds by state agencies or political subdivisions.

(2) A project is not eligible for funding unless the project meets the provisions of Title 76, part 6, and the applicant demonstrates that the property sought to be acquired is intended to be used for conservation of working forests, ranches, farms, and watersheds, including conservation of:

(a) forests;

(b) family ranches, farms, and other agricultural operations; or

(c) watersheds, wildlife habitat, and native wild animal and plant species and their habitat.

(3) In determining the priority of projects for funding, the commission shall consider, at a minimum:

(a) community support for the project;

- (b) immediacy of any threat of conversion of the land from its status as working land;
- (c) natural or public values of the working forest, ranch, farm, or watershed;
- (d) quality of the management plan for the land;
- (e) landscape and watershed integrity to conserve water quality and natural resources;
- (f) provision for public access;
- (g) potential social and economic impacts on affected political subdivisions and the state;
- (H) PROVISION FOR LOST PROPERTY TAX REVENUE FOR AFFECTED POLITICAL SUBDIVISIONS;
- ~~(h)~~(I) potential for leveraging additional funding sources; and
- ~~(i)~~(J) statewide distribution of funded projects.

(4) Expenditure of funds from the Montana working forests, ranches, farms, and watersheds account provided for in [section 6] must be made in the following order of priority:

- (a) loans;
- (b) matching grants; and
- (c) full project grants.

(5) (a) Each application to the commission for funding for acquisition of land through the program must include, in a manner and form prescribed by the commission, a management plan that demonstrates how the land will be maintained long-term or permanently as a working forest, ranch, farm, or watershed.

(b) Acceptable management plans include department forest stewardship plans, United States department of agriculture land conservation plans, or equivalent management plans as determined by the commission.

(6) The public must be provided with access to land that is acquired in fee simple.

(7) Easements held by the state and secured using any funding from the program, if authorized by the state, may be enforced by a nonprofit organization.

NEW SECTION. Section 8. Donation of property. (1) If property is donated to the state through the program, the property must be held in trust for the people of Montana and managed by the department.

(2) Absent language in the granting document to the contrary, revenue received from the trust may be used to fund reasonable administrative costs associated with managing the trust and the trust land.

NEW SECTION. Section 9. Sale of property after grant given. (1) If property or an interest in property that was purchased using grant money provided by the program is sold, the program must be reimbursed within

30 days of closing on a property transaction.

(2) The amount reimbursed to the program must be the proportion of the appraised market value that is equivalent to the proportion of the total cost of purchase that was provided by the grant through the program. The appraised market value must be determined by a Montana-licensed and Montana-certified appraiser.

NEW SECTION. Section 10. Department involvement in Montana working forests, ranches, farms, and watersheds program. The department is authorized to make acquisitions for trust land beneficiaries through the program.

NEW SECTION. Section 11. Rulemaking. The commission may adopt rules for the purpose of implementing and administering the program. Rules must be adopted pursuant to Title 2, chapter 4.

NEW SECTION. Section 12. Codification instruction. [Sections 1 through 11] are intended to be codified as an integral part of Title 76, chapter 6, and the provisions of Title 76, chapter 6, apply to [sections 1 through 11].

NEW SECTION. Section 13. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 14. Effective date. [This act] is effective on passage and approval.

- END -

