

MINUTES OF THE MEETING  
FISH AND GAME COMMITTEE  
MONTANA STATE SENATE

January 24, 1985

The third meeting of the Senate Fish and Game Committee was called to order at 1:00 P.M. on January 24, 1985 by Chairman Max Conover in Room 402 of the Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF SB 155: Senator Smith, District 10, presented this bill to the committee. He said the bill was introduced at the request of the Department of Fish, Wildlife and Parks. Jim Flynn will go through the first part of the bill that relates to rentals. Senator Smith read page 4, lines 1-5. This would allow the Department to negotiate through the bidding process.

Jim Flynn, Department of Fish, Wildlife and Parks rose in support of this bill. A copy of his written testimony is attached as Exhibit 1.

Chairman Conover asked for further proponents. There were none.

Chairman Conover asked for opponents. There were none.

Chairman Conover opened the hearing for questions.

Senator Yellowtail referred to the amendment on page 4. He asked if this suggests that Department lands may be sold at less than the fair market value.

Mr. Flynn said that is what we are trying to get away from. The present law requires sale by competitive sealed bid with payment of the full purchase price due within ten days of award. We cannot negotiate. This would give us the ability to go out and see if we could increase that bid so that we do receive the highest bid.

Senator Yellowtail asked if the current situation is such that you have a 30 day bid process and if you do not receive a fair market bid you must reject all bids.

Mr. Flynn said we can accept them. But in some instances the highest bid is so low we have to go back through the bid process.

Senator Yellowtail asked if extending the 30 day advertising time would help the situation.

Mr. Flynn said this would take care of one part of the problem and also everybody would see the bid notice. This would allow us to go out and negotiate and sell our property.

Senator Jacobson referred to the repealer section of the bill and asked if the Commission reviewed all projects, whether they were \$5.00 or \$5,000.

Mr. Flynn said we are required by law, prior to submitting the budget to the legislature, to present the budget to the Commission, in detail, so they can make adjustments. They have to adopt the budget before we can submit it to the legislature.

Senator Conover asked if some of the parcels of land that they have for sale were acquired through having to purchase a larger parcel of land to obtain what they needed.

Mr. Flynn said an example of that was we wanted to purchase fishing access along the Yellowstone River and we had a willing seller who wanted to sell 60 acres but would not just sell the 5 acres that we wanted. We bought the 60 acres to get the 5. We are going through the process now of trying to identify the excess lands that we are not using and we will try to sell them or trade the land for something suitable to our needs.

Senator Smith closed by stating we will still go through the bid process and after the first bid process the Department may negotiate to try to obtain market value. The Fish and Game Commission would have to approve whatever negotiation is done.

ACTION ON SB 155: Senator Severson made a motion that SB 155 DO PASS. The motion passed unanimously.

Chairman Conover advised the committee members of a bill drafting request on the White Sturgeon becoming on the endangered species list and requested Jim Flynn to explain the bill request to the committee.

Mr. Flynn said the Endangered Species Act, as written, requires the Department of Fish, Wildlife and Parks to "inform the legislature when a species should be added to the state endangered species list." That was done the first legislative day. A letter was delivered to the Speaker of the House

and to the President of the Senate. The legislative staff assumed they needed to have a bill introduced and so they called my Fisheries Division staff and asked for legislation. The Fisheries Division sent over the legislation. We do not need a bill to put a species on the state endangered list, a Senate or House Joint Resolution is all that is required. There is no deadline on resolutions. He requested that the committee give him more time to obtain information to discuss the subject next week.

Chairman Conover said we need a 3/4 vote of the committee if we want to make this a committee bill.

Mr. Flynn said any Senate or House member can introduce a resolution, however, if the Senate Fish and Game Committee wants to introduce it as a committee bill it would require a 3/4 vote of the committee. Mr. Flynn said he would get back to the committee next week with more information on the White Sturgeon.

Senator Smith asked what is a White Sturgeon.

Mr. Flynn said he would bring some slides to show the committee next week.

Senator Smith asked if as soon as we declare them on the endangered species list are there going to be problems for the fishermen in the area.

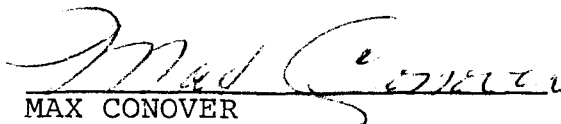
Mr. Flynn said he would address the committee concerns next week.

Senator Lane asked if there are any White Sturgeons in the state.

Janet Ellis, Montana Audubon Council, said they are extinct in the state, although there are some in British Columbia. They have not been found in the state since 1980.

Chairman Conover said we will leave any further questions until next week.

ADJOURNMENT: There being no further business the meeting adjourned at 1:50 P.M.

  
MAX CONOVER  
Chairman



January 24, 1985

## FISH AND GAME

155

# VISITOR'S REGISTER

[illegible]

(Please leave prepared statement with Secretary)

## EXHIBIT 1

### SB 155

Testimony presented by Jim Flynn, Department of Fish, Wildlife & Parks

January 24, 1985

Senate Bill 155 has been introduced at the request of the Department of Fish, Wildlife and Parks and covers three areas of concern.

1. Through amendment of Section 87-1-209, it permits the sale of surplus Department lands by private listings when the bid process, presently described by law, fails to secure a reasonable price, and
2. Repeals Section 87-1-106 which requires the payment of a \$4/square foot rental fee for the Department's Headquarters in Helena, and
3. Repeals Section 87-1-211 requiring Fish and Game Commission approval of construction projects in the cost range of \$1,000 - \$5,000.

The second and third items may be considered housekeeping matters but the first is a substantive change in the law which will improve the Department's ability to dispose of surplus property expeditiously and at the best possible price.

The present law requires sale by competitive sealed bid with the payment of the full purchase price due within ten days of award. We have undertaken a program to identify surplus Department lands and dispose of them in accordance with the law. These properties may be exchanged for other properties, which works well where it is appropriate, or sold by sealed bid. I would like to share with you our difficulties in implementing the sealed bid process by relating our experience with three properties.

The first is 12.6 acres of land and buildings southwest of Corvallis. The package appraised for \$75,000. Three bids were received. The highest bid for \$25,200 was rejected because it was just slightly over one-third of the appraised value. In this case we are negotiating with a neighbor to trade for land worth \$75,000 and which has winter range values.

The second parcel offered for sale by bid was the old Region 2 Headquarters on Brooks Street in Missoula. The package consisted of land and a building which was appraised at \$255,000. When it was first advertised For Sale by Bid in October of 1983, two bids were received; one for \$150,000 and the second for \$125,010. The high bid was rejected because it was less than one-half of the appraised value.

The Headquarters property was advertised as For Sale by Bid a second time in February of 1984. No bids were received.

The property was advertised For Sale by Bid for the third time in August of 1984. Two bids were received and the highest bid of \$200,000 was accepted although it was \$55,000 lower than the appraisal.

The third parcel advertised For Sale by Bid was 44.7 acres of agricultural property on the Yellowstone River near Greycliff. The acreage appraised for \$40,300. It was first advertised as For Sale by Bid in February 1984 and no bids were received.

The property was advertised again in November 1984. Three bids were received, the first was for \$20,010; the second for \$20,134.95; and the third for \$27,001 cash plus \$6,000 in labor and equipment services at Department sites over a period of ten years. Bid Three for \$27,001 cash and \$6,000 in services was approved by the Fish and Game Commission.

In these cases we spent a lot of time and effort going through the bid process and had no opportunity to negotiate with interested bidders or to seek out and negotiate with buyers.

The inability of the Department to receive fair market value for the lands they offer For Sale by Bid has been discussed with appraisers, realtors, bankers, and other lands people.

A consensus has been drawn that the method of disposal we are required to use is at fault.

For example, knowledgeable people contacted felt the Missoula Headquarters was appraised properly and reflected the proper fair market value. However, they feel that it is necessary that the property be marketed through commercial means. They all feel that the thirty-day sale period does not allow enough time for potential buyers to inspect the property, make a decision, and arrange for financing.

Because of the Department's experience in the disposal of property and the advice received, we recommend that the Department continue to attempt to dispose of its surplus property by sealed bid on a cash basis.

However, we would recommend that the law be revised to allow the property to be sold by realtors in the area at fair market value and their commission be paid from the proceeds of the sale if the bids received are not acceptable.

The second matter addressed in SB 155 is a housekeeping matter repealing Section 87-1-106 which presently requires the payment by the Department of Fish, Wildlife and Parks of a \$4/square foot rental fee to the Department of Administration for the Department of Fish, Wildlife and Parks Headquarters in Helena. This is a holdover statute from the days when DFWP was housed in the Mitchell Building. The fee is not appropriate today and is, therefore, not presently being charged because our present location was constructed with Fish, Wildlife and Parks Department earned revenues from sportsmen's licenses rather than General Fund monies.

The final item--also a housekeeping matter--would repeal Section 87-1-211 which requires Fish and Game Commission approval for construction projects estimated to cost between \$1,000 and \$5,000. This authority has not been used for several years because it is duplicative of and, in some cases, in conflict with the construction authority vested in the Department of Administration in various sections of Title 18 of the Montana Code. The Department's construction needs are being handled entirely by either the Architecture and Engineering Division or the State Purchasing Division and, therefore, the construction authority delegated to the Fish and Game Commission may be repealed without hindering the Department.

Additionally, the Fish and Game Commission, by law, approves the overall budget of the Department; and, therefore, in effect has approved all construction projects proposed by the Department.



# STANDING COMMITTEE REPORT

January 24, 1985

MR. PRESIDENT

We, your committee on **SENATE FISH AND GAME**  
having had under consideration **SENATE BILL** No. **155**  
**first** reading copy ( **white** )  
color

**REVISING DFW&P LAWS RELATING TO SALE OF LAND, RENTALS, & CONSTRUCTION PROJ.**

Respectfully report as follows: That **SENATE BILL** No. **155**

DO PASS

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**MAX CONOVER,**

Chairman.