

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FISH & GAME

Call to Order: By Senator Bob Pipinich, Chair, on March 2, 1993,
at 3:00 p.m.

ROLL CALL

Members Present:

Sen. Bob Pipinich, Chair (D)
Sen. Gary Forrester, Vice Chair (D)
Sen. Tom Beck (R)
Sen. Don Bianchi (D)
Sen. John Brenden (R)
Sen. Bruce Crippen (R)
Sen. Terry Klampe (D)
Sen. Kenneth Mesaros (R)

Members Excused: Sen. Chris Christiaens (D)
Sen. Gerry Devlin (R)
Sen. Judy Jacobson (D)

Members Absent: None.

Staff Present: Andrea Merrill, Legislative Council
Kathy Collins, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 122, HB 125
Executive Action: HB 122, HB 125

HEARING ON HB 122

Opening Statement by Sponsor:

Representative Shiell Anderson, House District 81, stated HB 122 legitimizes what the Department of Fish, Wildlife & Parks (DFWP) is currently doing--having nonmonetary leases with neighboring landowners around certain DFWP properties across the state. Representative Anderson stated HB 122 does not affect state trust lands in any fashion. Representative Anderson stated the Legislative Auditor brought to the Department's attention that according to present law, the nonmonetary leases were not legal, and HB 122 would allow for the nonmonetary leases under the law.

Proponents' Testimony:

Al Elser, Deputy Director, DFWP, spoke from prepared testimony in favor of HB 122 (Exhibit #1).

Jim Manning, representing the Legislative Auditor's Office, stated in the Office's 1992 review of Department leasing policies, it was discovered that there was no statutory authority for the nonmonetary leases; therefore, it was recommended that the Department consider the need for legislation specifically authorizing these leases. Mr. Manning stated HB 122 would implement that recommendation.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Mesaros asked Al Elser how many nonmonetary leases were involved. Mr. Elser stated he could not say exactly how many leases the Department had at present that were nonmonetary. Mr. Elser stated the majority of the leases are cash leases, and most of these leases were under \$1000. Mr. Elser stated he would say that less than 10% of the leases were nonmonetary.

Senator Mesaros asked Al Elser if it would be to the Department's advantage to do more of the nonmonetary leases. Mr. Elser stated it would be beneficial for both the Department and the lessor.

Senator Klampe asked Al Elser how the Department determines when the leases will be done on a nonmonetary basis. Mr. Elser stated the Department advertises for leases in the local newspapers. When responses are made by interested parties, the Department evaluates the services offered and makes its decision based on the benefit to both the Department and the resource.

Senator Klampe asked Al Elser how competitive bids were conducted on services. Mr. Elser stated the Department evaluates the value of the offers. If one party offers to mend fences and another party offers to mend fences and leave grain in the field, the latter offer would be accepted.

Senator Crippen asked Al Elser if the nonmonetary leases were increasing in number. Mr. Elser stated the number of nonmonetary leases stay fairly stable.

Senator Crippen asked Al Elser where the money comes from for land upkeep if a service lease is not entered into. Mr. Elser stated the Department has a real property trust fund, and

anything the Department makes off the Department of Lands goes into this trust. The interest from the trust goes into projects that are being discussed, but there is not enough interest to cover what needs to be done across the state.

Closing by Sponsor:

Representative Anderson respectfully closed and requested that Senator Pipinich select someone from the Committee to carry HB 122.

HEARING ON HB 125

Opening Statement by Sponsor:

Representative Randy Vogel, House District 86, stated HB 125 would provide for an easement when there is a willing seller and a willing buyer. Representative Vogel stated there have been problems in the past, two of which were the Billings Police Department pistol range and the shooting range at the Bozeman Law Enforcement Academy. Both of these ranges have been shut down. Representative Vogel stated HB 125 would provide another type of easement under the Easement Act for the right to use the land adjacent to a shooting range and to provide for a consensual purchase of the land adjacent as a safety zone.

Proponents' Testimony:

None.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Mesaros asked Representative Vogel if the citizens in Billings felt threatened by the pistol range there. Representative Vogel stated the citizens began to feel threatened because they felt there were times when people were shooting over the embankments.

Senator Beck asked Representative Vogel if the easements are subject to condemnation. Representative Vogel stated that question was answered through the Legislative Council who researched it and found that the easements are not subject to condemnation.

Closing by Sponsor:

Representative Vogel stated HB 125 deals with consensual agreement on the easement and asked the Committee for its favorable consideration. Representative Vogel stated Senator Bernie Swift would carry HB 125.

EXECUTIVE ACTION ON HB 122

Motion/Vote:

Senator Forrester moved HB 122 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

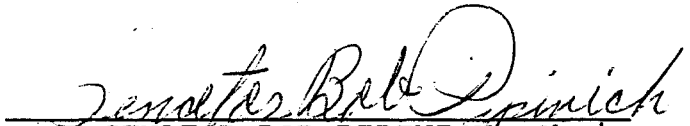
EXECUTIVE ACTION ON HB 125

Motion/Vote:

Senator Bianchi moved HB 125 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 3:30 p.m.



SENATOR BOB PIPINICH, Chair



KATHY COLLINS, Secretary

BP/kc

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 2, 1993

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration House Bill No. 122 (first reading copy -- blue), respectfully report that House Bill No. 122 be concurred in.

Signed: Senator Bob Pipinich
Senator Bob Pipinich, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 2, 1993

MR. PRESIDENT:

We, your committee on Fish and Game having had under consideration House Bill No. 125 (first reading copy -- blue), respectfully report that House Bill No. 125 be concurred in.

Signed:

Senator Bob Pipinich
Senator Bob Pipinich, Chair

SENATE FISH AND GAME

EXAMINER 1

DATE 3-2-93

BILL NO. HB 122

HB 122
March 2, 1993

**Testimony presented by Al Elser, Dept. of Fish, Wildlife & Parks
before the Senate Fish and Game Committee**

The purpose of this bill is to allow the department to lease land it controls to interested parties in exchange for services they perform on leased department land. Passage of the bill will establish specific statutory authority for these limited leases. The bill will also conform to a recommendation in the Office of the Legislative Auditor's 1992 review of the department's real property leasing operations.

The department owns wildlife management areas, fishing access sites, and parks across the state. We sometimes enter into lease agreements with interested parties who use department land for grazing, agricultural, or other uses.

Most lease agreements provide that lessors make cash payments to the department; this type of agreement would not be affected by the proposed legislation. A typical example is leasing acreage to the highest bidder to graze a specified number of animal units on department land.

Occasionally, it is advantageous for the department to enter into service lease agreements. In such cases, we contract with interested parties who perform a service on department land in

exchange for being allowed to graze livestock or plant crops on our property. Examples of services include: leaving a portion of a planted crop to improve wildlife habitat; maintaining fences, roads, and boat ramps; and controlling weeds.

With service lease agreements, there is no exchange of cash. Instead, the contractor performs services. Most of these leases involve wildlife management properties and have a fair market value of less than \$1000.

Service leases will be restricted by department policy. For example, leases may be approved only if the activity leaves the site in its existing or an improved condition. In addition, these leases will be advertised in the local newspaper, allowing interested parties to submit competitive bids. If competitive bids are not received, prices will be established by sources such as the Agriculture Statistic Board report, federal and state grazing rates, and the Montana Custom Rate/Lease Agreement Survey.

Present statutes do not specifically allow the department to enter into service payment agreements. The proposed legislation will clearly allow the department to continue the current practice of entering into agreements to lease land to interested parties in exchange for their performing services on that land.

There are several advantages to entering into service leases when applicable, rather than being restricted to cash leases. Service agreements avoid excessive staff time spent on paperwork. The department avoids investing in costly equipment and personnel required if we, rather than a lessee, performed the services. Finally, cooperating with local landowners promotes good will. We believe that this limited exception will allow good business and management practices to continue.

In closing, this amended legislation will recognize current practice and bring us into full compliance with state law and the 1992 Legislative Auditor's review.

EXHIBIT 1
DATE 3-2-93
HB 122

DATE 3/2/93

SENATE COMMITTEE ON Fish & Game

BILLS BEING HEARD TODAY: HB 122, HB 125

Name	Representing	Bill No.	Check One Support Oppose	
AL ELSEZ	MDFWP	HB122	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY