

House Bill 628

In The House

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| February 3, 1981 | Introduced and referred to Committee on Natural Resources. |
| February 5, 1981 | Fiscal note requested. |
| February 11, 1981 | Fiscal note returned. |
| April 23, 1981 | Died in Committee. |

HOUSE BILL NO. 628

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1 INTRODUCTION BY
 2 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT THE
 3 DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FROM
 4 CONSTRUCTING, OPERATING, AND MAINTAINING WATER PROJECTS FOR
 5 THE DEVELOPMENT OF POWER; TO PROVIDE SPECIFIC AUTHORITY FOR
 6 THE DEPARTMENT TO LEASE WATER PROJECTS FOR THE DEVELOPMENT
 7 OF POWER; ESTABLISHING THE REQUIREMENTS OF SUCH LEASES; AND
 8 AMENDING SECTION 85-1-102, MCA."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 10 Section 1. Section 85-1-102, MCA, is amended to read:
 11 "85-1-102. Definitions. Unless the context requires
 12 otherwise, in this chapter the following definitions apply:
 13 (1) "Board" means the board of natural resources and
 14 conservation provided for in 2-15-3302.
 15 (2) "Cost of works" means the cost of construction;
 16 the cost of all lands, property, rights, easements, and
 17 franchises acquired which are deemed necessary for the
 18 construction; the cost of all water rights acquired or
 19 exercised by the department in connection with those works;
 20 the cost of all machinery and equipment, financing charges,
 21 interest prior to and during construction and for a period
 22 not exceeding 3 years after the completion of construction;

1 cost of engineering and legal expenses, plans,
 2 specifications, surveys, estimates of cost, and other
 3 expenses necessary or incident to determining the
 4 feasibility or practicability of any project; administrative
 5 expense; and such other expenses as may be necessary or
 6 incident to the financing herein authorized and the
 7 construction of the works and the placing of the same in
 8 operation.

9 (3) "Department" means the department of natural
 10 resources and conservation provided for in Title 2, chapter
 11 15, part 33.

12 (4) "Owner" means all individuals, irrigation
 13 districts, drainage districts, flood control districts,
 14 incorporated companies, societies, or associations having
 15 any title or interest in any properties, rights, easements,
 16 or franchises to be acquired.

17 (5) "Project" means any one of the works herein
 18 defined or any combination of such works which are
 19 physically connected or jointly managed and operated as a
 20 single unit.

21 (6) "Works" means all property, rights, easements, and
 22 franchises relating thereto and deemed necessary or
 23 convenient for their operation and all water rights acquired
 24 or exercised by the department in connection with those
 25 works and includes all means of conserving and distributing

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1 water, including, without limiting the generality of the
 2 foregoing, reservoirs, dams, diversion canals, distributing
 3 canals, waste canals, drainage canals, dikes, lateral
 4 ditches and pumping units, mains, pipelines, and waterworks
 5 systems and includes all such works for the conservation,
 6 development, storage, distribution, and utilization of
 7 water, including without limiting the generality of the
 8 foregoing, works for the purpose of irrigation, flood
 9 prevention, drainage, fish and wildlife, recreation,
 10 ~~development-of-power fire protection~~, watering of stock, and
 11 supplying of water for public, domestic, industrial, or
 12 other uses ~~and-for-fire-protection other than the generation~~
 13 ~~of power."~~

14 NEW SECTION. Section 2. Lease of state water projects
 15 or works for power generation. (1) The department of natural
 16 resources and conservation may lease any water projects or
 17 works under its control to any person, corporation, public
 18 utility, or rural electric cooperative. Such lease may
 19 include the site, facilities, falling water, and other
 20 property or rights held by the department necessary for the
 21 generation of power.

22 (2) No royalty payments provided for under the terms
 23 of the lease agreement may exceed 10% of the cost of
 24 generation of power at the facility.

25 (3) In the case of competing lease offers, preference

1 must be given to public utilities or rural electric
 2 cooperatives serving customers in Montana.

3 (4) Prior to entering any lease agreement, the
 4 department of natural resources and conservation shall
 5 consider whether the potential lessee is capable of:

6 (a) making the royalty payments offered;

7 (b) proceeding with the proposed development without
 8 undue delay; and

9 (c) providing efficient and reliable service.

10 (5) The department must accept or reject an
 11 application for lease within 300 days of its receipt.

12 (6) No lease under this section may exceed 50 years.

-End-

STATE OF MONTANA

REQUEST NO. 308-81

FISCAL NOTE

Form BD-15

In compliance with a written request received February 5, 19 81, there is hereby submitted a Fiscal Note for House Bill 628 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

House Bill 628 prohibits the Department of Natural Resources and Conservation from developing power at the state-owned water-conservation projects and requires the Department of Natural Resources and Conservation to lease the projects to public utilities or rural electric cooperatives for less than 10% over the cost of producing the power.

Assumptions

1. Under the proposed law, three applications for leases would be processed per year. This duty would be absorbed by present staff.
2. Under current law, three facilities which are presently under consideration would be constructed by the department. Power produced by these facilities would be sold at a long-term (50-year) rate of 35 mills.

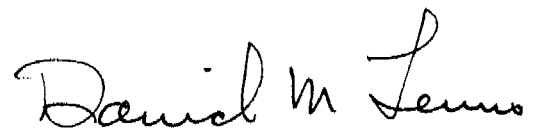
Fiscal Impact

No direct fiscal impact will be caused by this measure. With the above assumptions, however, the department would lose a substantial amount of revenue over the 50-year project life for the three projects.

Under House Bill 628, the three projects would be leased at \$169,000 per year for 50 years. This would result in \$8,455,000.

Under current law, the power generated by the facilities would be sold at 35 mills for 50 years. This would result in \$60,353,150.

The difference is about \$52,000,000.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date. 2-11-80