## SENATE BILL NO. 272

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### INTRODUCED BY MOHAR

## BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

## IN THE SENATE

January 29, 1985	Introduced and referred to Committee on Natural Resources.				
February 14, 1985	Committee recommend bill do pass. Report adopted.				
February 15, 1985	Bill printed and placed on members' desks.				
February 16, 1985	Second reading, do pass.				
February 18, 1985	Considered correctly engrossed.				
February 19, 1985	Third reading, passed. Ayes, 45; Noes, 0.				
	Transmitted to House.				
IN THE HOUSE					
February 27, 1985	Introduced and referred to Committee on Natural Resources.				
March 18, 1985	Committee recommend bill be concurred in. Report adopted.				
March 20, 1985	Second reading, concurred in.				
March 22, 1985	Third reading, concurred in.				
	Returned to Senate.				

## IN THE SENATE

March 22, 1985

March 23, 1985

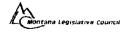
Received from House.

Sent to enrolling.

Reported correctly enrolled.

BILL NO. 272 1 2 INTRODUCED BY mol BY REQUEST OF THE DEPARTMENT 3 OF NATURAL RESOURCES AND CONSERVATION 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE 6 7 ELIGIBILITY AND LICENSE COMPLIANCE PROVISIONS RELATED TO THE 8 DEVELOPMENT OF HYDROELECTRIC POWER GENERATION AT STATE-OWNED WATER PROJECTS: PROVIDING FOR A POWER GENERATION NEGOTIATION 9 PROCESS; AMENDING SECTIONS 85-1-503 AND 85-1-506, MCA; AND 10 PROVIDING AN IMMEDIATE EFFECTIVE DATE." 11 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 13 Section 1. Section 85-1-503, MCA, is amended to read: 14 15 "85-1-503. Receipt of applications. (1) Applications 16 for lease may be submitted by any public-utility7-as-defined in-69-3-1017-or-electric-cooperative;-organized-under--Title 17 18 357--chapter-187-that-sells-power-to-Montana-customers-or-by 19 any-Montana--corporation--proposing--to--use--a--substantial portion--of--the--electricity--to--be--generated--in-its-own 20 21 operation person qualified to do business in Montana. (2) The board shall consider only applications 22 received within 180 days after the final publication of the 23 24 notice.

25 (3) Applications must include a statement of the



LC 0698/01

1 capability of the applicant to achieve the annual production 2 output estimated by the department, the estimated time to make the project operational, the bid amount of the royalty, 3 and any other information that the board requests." 4 Section 2. Section 85-1-506, MCA, is amended to read: 5 6 "85-1-506. Compliance with federal law. #f-the-project must The department may hold a license, permit, or exemption 7 8 under federal law,-the-license,-permit,-or-exemption-shall 9 be-held-by-the-department on a project." 10 NEW SECTION. Section 3. Power generation negotiation process. (1) A person with federal authorization or, if 11 authorization is not required, a person planning to 12 construct a small-scale hydroelectric generation facility at 13 a state-owned project shall submit an application to the 14

15 department for hydroelectric development at the state-owned 16 project site.

17 (2) Upon receipt of a written application under 18 subsection (1), the department shall make an investigation 19 and prepare a report on the value of the power site, the 20 plans of development submitted by the applicant, and any 21 other matters relating to the proposed development that the 22 department considers necessary for the proper development of 23 hydroelectric generation at the state-owned project.

24 (3) Upon completion of the report, the department may25 negotiate with the applicant for the acquisition of the

INTRODUCED BILL -2-5B 272

necessary interest in the state-owned project to effectively allow the applicant to operate a hydroelectric facility. The terms, conditions, and compensation agreed to must include but not be limited to the full market value of the interest disposed of by the department. Full market value must be determined by the department in the report completed under subsection (2).

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8 (4) An applicant under subsection (1) shall pay to the 9 department all costs incurred by the department in carrying 10 out its duties under this section. The department and the 11 applicant shall contract for the provision of services and 12 payment of fees required by this section prior to accepting 13 an application under subsection (2).

14 (5) Nothing in this section requires the department to 15 construct, rehabilitate, reconstruct, operate, or otherwise 16 maintain the state-owned project to accommodate the 17 hydroelectric facility except as negotiated under subsection 18 (3).

19 (6) Department actions under this section are subject20 to prior approval of the board as provided in 85-1-202.

<u>NEW SECTION.</u> Section 4. Codification instruction.
Section 3 is intended to be codified as an integral part of
Title 85, chapter 1, part 5, and the provisions of Title 85,
chapter 1, part 5, apply to section 3.

25 NEW SECTION. Section 5. Extension of authority. Any

LC 0698/01

- l existing authority of the board of natural resources and
- 2 conservation to make rules on the subject of the provisions
- 3 of this act is extended to the provisions of this act.
- 4 NEW SECTION. Section 6. Effective date. This act is
- 5 effective on passage and approval.

-End-

-3-

APPROVED BY COMM. ON NATURAL RESOURCES

1	Senate BILL NO. 272
2	INTRODUCED BY Mole
3	BY REQUEST OF THE DEPARTMENT
4	OF NATURAL RESOURCES AND CONSERVATION
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE
7	ELIGIBILITY AND LICENSE COMPLIANCE PROVISIONS RELATED TO THE
8	DEVELOPMENT OF HYDROELECTRIC POWER GENERATION AT STATE-OWNED
9	WATER PROJECTS; PROVIDING FOR A POWER GENERATION NEGOTIATION
10	PROCESS; AMENDING SECTIONS 85-1-503 AND 85-1-506, MCA; AND
11	PROVIDING AN IMMEDIATE EFFECTIVE DATE."
12	
13	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14	Section 1. Section 85-1-503, MCA, is amended to read:
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16	for lease may be submitted by any <b>public-utility-as-define</b> d
17	in-69-3-1017-or-electric-cooperative7-organized-underTitle
18	35;chapter-18;-that-sells-power-to-Montana-customers-or-by
19	any-Montanacorporationproposingtouseasubstantial
20	portionoftheelectricitytobegeneratedin-its-owr
21	operation person qualified to do business in Montana.
22	(2) The board shall consider only applications
23	received within 180 days after the final publication of the
24	notice.
25	(3) Applications must include a statement of the

Montana Legislative Council

capability of the applicant to achieve the annual production
 output estimated by the department, the estimated time to
 make the project operational, the bid amount of the royalty,
 and any other information that the board requests."

Section 2. Section 85-1-506, MCA, is amended to read:
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must The department may hold a license, permit, or exemption
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10 <u>NEW SECTION.</u> Section 3. Power generation negotiation 11 process. (1) A person with federal authorization or, if 12 authorization is not required, a person planning to 13 construct a small-scale hydroelectric generation facility at 14 a state-owned project shall submit an application to the 15 department for hydroelectric development at the state-owned 16 project site.

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SECOND READING -2-

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15 construct, rehabilitate, reconstruct, operate, or otherwise
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LC 0698/01

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4	OF NATURAL RESOURCES AND CONSERVATION
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9	WATER PROJECTS; PROVIDING FOR A POWER GENERATION NEGOTIATION
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(3) Upon completion of the report, the department may 24 25 negotiate with the applicant for the acquisition of the

> THIRD READING -2-58 272

necessary interest in the state-owned project to effectively 1 allow the applicant to operate a hydroelectric facility. The 2 3 terms, conditions, and compensation agreed to must include 4 but not be limited to the full market value of the interest disposed of by the department. Full market value must be 5 determined by the department in the report completed under 6 subsection (2). 7

8 (4) An applicant under subsection (1) shall pay to the 9 department all costs incurred by the department in carrying 10 out its duties under this section. The department and the 11 applicant shall contract for the provision of services and 12 payment of fees required by this section prior to accepting an application under subsection (2). 13

(5) Nothing in this section requires the department to 14 construct, rehabilitate, reconstruct, operate, or otherwise 15 16 maintain the state-owned project to accommodate the 17 hydroelectric facility except as negotiated under subsection (3). 18

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instruction. 21 NEW SECTION. Section 4. Codification Section 3 is intended to be codified as an integral part of 22 23 Title 85, chapter 1, part 5, and the provisions of Title 85, chapter 1, part 5, apply to section 3. 24

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existing authority of the board of natural resources and 1 2 conservation to make rules on the subject of the provisions of this act is extended to the provisions of this act. 3

NEW SECTION. Section 6. Effective date. This act is 4 effective on passage and approval. 5

-End-

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1	SENATE BILL NO. 272	1	capability of the applicant to achieve the annual production
2	INTRODUCED BY MOHAR	2	output estimated by the department, the estimated time to
3	BY REQUEST OF THE DEPARTMENT	3	make the project operational, the bid amount of the royalty,
4	OF NATURAL RESOURCES AND CONSERVATION	4	and any other information that the board requests."
5		5	Section 2. Section 85-1-506, MCA, is amended to read:
6	A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE	6	*85-1-506. Compliance with federal law. If-the-project
7	ELIGIBILITY AND LICENSE COMPLIANCE PROVISIONS RELATED TO THE	7	must The department may hold a license, permit, or exemption
8	DEVELOPMENT OF HYDROELECTRIC POWER GENERATION AT STATE-OWNED	8	under federal law7-the-license7-permit7-or-exemption-shall
9	WATER PROJECTS; PROVIDING FOR A POWER GENERATION NEGOTIATION	9	be-held-by-the-department on a project."
10	PROCESS: AMENDING SECTIONS 85-1-503 AND 85-1-506, MCA; AND	10	NEW SECTION. Section 3. Power generation negotiation
11	PROVIDING AN IMMEDIATE EFFECTIVE DATE."	11	process. (1) A person with federal authorization or, if
12		12	authorization is not required, a person planning to
13	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	13	construct a small-scale hydroelectric generation facility at
14	Section 1. Section 85-1-503, MCA, is amended to read:	14	a state-owned project shall submit an application to the
15	*85-1-503. Receipt of applications. (1) Applications	15	department for hydroelectric development at the state-owned .
16	for lease may be submitted by any public-utility,-as-defined	16	project site.
17	in-69-3-1017-or-electric-cooperative7-organized-underTitle	17	(2) Upon receipt of a written application under
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1 <b>9</b>	any-Montanacorporationproposingtouseasubstantial	19	and prepare a report on the value of the power site, the
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22	(2) The board shall consider only applications	22	department considers necessary for the proper development of
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24	notice.	24	(3) Upon completion of the report, the department may
25	(3) Applications must include a statement of the	25	negotiate with the applicant for the acquisition of the
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REFERENCE BILL

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#### SB 0272/02

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SB 0272/02

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<u>NEW SECTION.</u> Section 6. Effective date. This act is
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-End-

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SB 272

SB 272