



IN THE HOUSE

MARCH 20, 1987

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

MARCH 21, 1987

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.



1 fix and establish the prices, rates, and charges so as to  
 2 provide at all times funds which will be sufficient to pay  
 3 all costs of operation and maintenance of the works  
 4 authorized by this chapter, together with necessary repairs  
 5 thereto, and which will provide at all times sufficient  
 6 funds to meet and pay the principal and interest of all  
 7 bonds or loans as they severally become due and payable.

8 (3) This chapter does not authorize any change,  
 9 alteration, or revision of those rates, prices, or charges  
 10 as established by any contract entered into under this  
 11 chapter except as provided by the contract.

12 (4) A contract made by the department for the sale of  
 13 water, use of water, water storage, or other service or for  
 14 the sale of any property or facilities shall provide that,  
 15 in the event of a failure or default in the payment of  
 16 moneys specified in the contract to be paid to the  
 17 department, the department may, upon notice as is prescribed  
 18 in the contract, terminate the contract and all obligations  
 19 thereunder. The act of the department in ceasing on default  
 20 to furnish or deliver water, use of water, water storage, or  
 21 other service under the contract does not deprive the  
 22 department of or limit any remedy provided by the contract  
 23 or by law for the recovery of moneys due or which may become  
 24 due under the contract.

25 (5) Subject to the approval of the board under

1 85-1-202, the department may sell, transfer to water user  
 2 associations, abandon, or otherwise dispose of any  
 3 rights-of-way, easements, ~~or~~ property properties, or  
 4 interests, or lease or rent the same or otherwise take and  
 5 receive the income or profit and revenue therefrom. Prior to  
 6 the department's sale, transfer, or other disposition, A a  
 7 determination shall be made by the department as to the  
 8 market value of the rights-of-way, easements, or property  
 9 properties, or interests to be sold, transferred, abandoned,  
 10 or otherwise disposed of. The department's determination of  
 11 market value shall consider all liens, encumbrances, and  
 12 other limitations on the project properties or interests."

13 NEW SECTION. Section 3. Extension of authority. Any  
 14 existing authority of the board of natural resources and  
 15 conservation to make rules on the subject of the provisions  
 16 of this act is extended to the provisions of this act.

17 NEW SECTION. Section 4. Severability. If a part of  
 18 this act is invalid, all valid parts that are severable from  
 19 the invalid part remain in effect. If a part of this act is  
 20 invalid in one or more of its applications, the part remains  
 21 in effect in all valid applications that are severable from  
 22 the invalid applications.

23 NEW SECTION. Section 5. Effective date. This act is  
 24 effective July 1, 1987.

-End-

APPROVED BY COMM. ON  
NATURAL RESOURCES

1 HOUSE BILL NO. 388

2 INTRODUCED BY ASAY, IVERSON

3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES

4 AND CONSERVATION

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT THE  
7 DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION MAY SELL,  
8 LEASE, OR OTHERWISE DISPOSE OF WATER PROJECTS WITHOUT REGARD  
9 TO OTHER LAWS PROVIDING FOR DISPOSITION OF STATE PROPERTY;  
10 TO CLARIFY THAT THE MARKET VALUE OF A WATER PROJECT MUST  
11 INCLUDE ALL ENCUMBRANCES AND LIMITATIONS ON THE PROJECT; TO  
12 REMOVE THE REFERENCE TO THE BOARD OF NATURAL RESOURCES AND  
13 CONSERVATION TO REFLECT THAT WATER BONDS MAY BE ISSUED BY A  
14 VARIETY OF AUTHORITIES; AMENDING SECTIONS 85-1-210 AND  
15 85-1-211, MCA; AND PROVIDING AN EFFECTIVE DATE."

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 Section 1. Section 85-1-210, MCA, is amended to read:

19 "85-1-210. Disposal of property by department. In  
20 addition to the powers conferred upon the department to  
21 sell, lease, or otherwise dispose of waters for the purpose  
22 of irrigation, development of power, watering of stock, or  
23 other purposes, the department, with the approval of the  
24 board, may sell, lease, or otherwise dispose of waters from  
25 its waterworks systems for public, domestic, industrial, and

1 other uses and for fire protection without regard to other  
2 laws providing for the disposition of state property. The  
3 department, with the approval of the board, may sell or  
4 otherwise dispose of a water project, after the discharge of  
5 all of the bonds issued ~~by the board~~ to finance the  
6 construction or acquisition thereof, if any, and of all  
7 interest thereon and costs and expenses incurred in  
8 connection with any action or proceeding by or on behalf of  
9 the holders of the bonds. The department shall make a  
10 determination of the market value of the water project prior  
11 to its sale or other disposition. The department's  
12 determination of market value shall consider all liens,  
13 encumbrances, and other limitations on the water project."

14 Section 2. Section 85-1-211, MCA, is amended to read:

15 "85-1-211. Management of property -- water contracts.

16 (1) Subject to this chapter, the department may fix and  
17 establish the prices, rates, and charges at which the  
18 resources and facilities made available under this chapter  
19 may be sold and disposed of and enter into contracts and  
20 agreements and do those things which in its judgment are  
21 necessary, convenient, or expedient for the accomplishment  
22 of the purposes and objects of this chapter, under such  
23 general rules and upon such terms, limitations, and  
24 conditions as it prescribes.

25 (2) The department shall enter into the contracts and

1 fix and establish the prices, rates, and charges so as to  
 2 provide at all times funds which will be sufficient to pay  
 3 all costs of operation and maintenance of the works  
 4 authorized by this chapter, together with necessary repairs  
 5 thereto, and which will provide at all times sufficient  
 6 funds to meet and pay the principal and interest of all  
 7 bonds or loans as they severally become due and payable.

8 (3) This chapter does not authorize any change,  
 9 alteration, or revision of those rates, prices, or charges  
 10 as established by any contract entered into under this  
 11 chapter except as provided by the contract.

12 (4) A contract made by the department for the sale of  
 13 water, use of water, water storage, or other service or for  
 14 the sale of any property or facilities shall provide that,  
 15 in the event of a failure or default in the payment of  
 16 moneys specified in the contract to be paid to the  
 17 department, the department may, upon notice as is prescribed  
 18 in the contract, terminate the contract and all obligations  
 19 thereunder. The act of the department in ceasing on default  
 20 to furnish or deliver water, use of water, water storage, or  
 21 other service under the contract does not deprive the  
 22 department of or limit any remedy provided by the contract  
 23 or by law for the recovery of moneys due or which may become  
 24 due under the contract.

25 (5) Subject to the approval of the board under

1 85-1-202, the department may sell, transfer to water user  
 2 associations, abandon, or otherwise dispose of any  
 3 rights-of-way, easements, ~~or~~ property properties, or  
 4 interests, or lease or rent the same or otherwise take and  
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 6 the department's sale, transfer, or other disposition, A a  
 7 determination shall be made by the department as to the  
 8 market value of the rights-of-way, easements, or property  
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 11 market value shall consider all liens, encumbrances, and  
 12 other limitations on the project properties or interests."

13 NEW SECTION. Section 3. Extension of authority. Any  
 14 existing authority of the board of natural resources and  
 15 conservation to make rules on the subject of the provisions  
 16 of this act is extended to the provisions of this act.

17 NEW SECTION. Section 4. Severability. If a part of  
 18 this act is invalid, all valid parts that are severable from  
 19 the invalid part remain in effect. If a part of this act is  
 20 invalid in one or more of its applications, the part remains  
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8 LEASE, OR OTHERWISE DISPOSE OF WATER PROJECTS WITHOUT REGARD  
9 TO OTHER LAWS PROVIDING FOR DISPOSITION OF STATE PROPERTY;  
10 TO CLARIFY THAT THE MARKET VALUE OF A WATER PROJECT MUST  
11 INCLUDE ALL ENCUMBRANCES AND LIMITATIONS ON THE PROJECT; TO  
12 REMOVE THE REFERENCE TO THE BOARD OF NATURAL RESOURCES AND  
13 CONSERVATION TO REFLECT THAT WATER BONDS MAY BE ISSUED BY A  
14 VARIETY OF AUTHORITIES; AMENDING SECTIONS 85-1-210 AND  
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23 other purposes, the department, with the approval of the  
24 board, may sell, lease, or otherwise dispose of waters from  
25 its waterworks systems for public, domestic, industrial, and

1 other uses and for fire protection without regard to other  
2 laws providing for the disposition of state property. The  
3 department, with the approval of the board, may sell or  
4 otherwise dispose of a water project, after the discharge of  
5 all of the bonds issued by--the--board to finance the  
6 construction or acquisition thereof, if any, and of all  
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14 Section 2. Section 85-1-211, MCA, is amended to read:

15 "85-1-211. Management of property -- water contracts.

16 (1) Subject to this chapter, the department may fix and  
17 establish the prices, rates, and charges at which the  
18 resources and facilities made available under this chapter  
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25 (5) Subject to the approval of the board under

1 85-1-202, the department may sell, transfer to water user  
 2 associations, abandon, or otherwise dispose of any  
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10 PROPERTY. Prior to the department's sale, transfer, or other  
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