# HOUSE BILL NO. 388

## INTRODUCED BY ASAY, IVERSON

# BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

### IN THE HOUSE

- JANUARY 21, 1987 INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
- JANUARY 30, 1987 COMMITTEE RECOMMEND BILL DO PASS AS AMENDED, REPORT ADOPTED.
- JANUARY 31, 1987 PRINTING REPORT.

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- FEBRUARY 3, 1987 SECOND READING, DO PASS.
- FEBRUARY 4, 1987 ENGROSSING REPORT.

THIRD READING, PASSED. AYES, 89; NOES, 10.

TRANSMITTED TO SENATE.

IN THE SENATE

- FEBRUARY 5, 1987 INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
- MARCH 10, 1987 COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.

MARCH 13, 1987 SECOND READING, CONCURRED IN.

MARCH 16, 1987 THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

# IN THE HOUSE

MARCH 20, 1987

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RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS CONCURRED IN.

MARCH 21, 1987

THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

LC 1133/01

INTRODUCED BY Clean ı 2 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES 3 AND CONSERVATION 4

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

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5

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 17 Section 1. Section 85-1-210, MCA, is amended to read: 18 "85-1-210. Disposal of property by department. In 19 addition to the powers conferred upon the department to 20 sell, lease, or otherwise dispose of waters for the purpose 21 of irrigation, development of power, watering of stock, or 22 other purposes, the department, with the approval of the 23 board, may sell, lease, or otherwise dispose of waters from 24 its waterworks systems for public, domestic, industrial, and 25

Montana Legislative Council

other uses and for fire protection without regard to other 1 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 interest thereon and costs and expenses incurred in 7 connection with any action or proceeding by or on behalf of 8 the holders of the bonds. The department shall make a 9 determination of the market value of the water project prior 10 to its sale or other disposition. The department's 11 determination of market value shall consider all liens, 12 encumbrances, and other limitations on the water project." 13 Section 2. Section 85-1-211, MCA, is amended to read: 14 "85-1-211. Management of property -- water contracts. 15 (1) Subject to this chapter, the department may fix and 16 establish the prices, rates, and charges at which the 17 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 necessary, convenient, or expedient for the accomplishment 21 of the purposes and objects of this chapter, under such 22 23 general rules and upon such terms, limitations, and conditions as it prescribes. 24 25 (2) The department shall enter into the contracts and

> -2- INTRODUCED BILL HB-388

LC 1133/01

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fix and establish the prices, rates, and charges so as to provide at all times funds which will be sufficient to pay all costs of operation and maintenance of the works authorized by this chapter, together with necessary repairs thereto, and which will provide at all times sufficient funds to meet and pay the principal and interest of all 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 or by law for the recovery of moneys due or which may become 23 24 due under the contract.

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

2 associations. abandon, or otherwise dispose of any 3 rights-of-way, easements, or---property properties, or interests, or lease or rent the same or otherwise take and 4 receive the income or profit and revenue therefrom. Prior to 5 the department's sale, transfer, or other disposition, A a 6 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 other limitations on the project properties or interests." 12 13 NEW SECTION. Section 3. Extension of authority. Any existing authority of the board of natural resources and 14 conservation to make rules on the subject of the provisions 15 16 of this act is extended to the provisions of this act. 17 NEW SECTION. Section 4. Severability. If a part of

85-1-202, the department may sell, transfer to water user

this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

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

-End-

-3-

LC 1133/01

-4-

#### HB 0388/02

#### 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; TO CLARIFY THAT THE MARKET VALUE OF A WATER PROJECT MUST 10 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

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 17 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 of irrigation, development of power, watering of stock, or 22 23 other purposes, the department, with the approval of the 24 board, may sell, lease, or otherwise dispose of waters from its waterworks systems for public, domestic, industrial, and 25

Montana Legislative Council

other uses and for fire protection without regard to other 1 laws providing for the disposition of state property. The 2 department, with the approval of the board, may sell or 3 otherwise dispose of a water project, after the discharge of 4 5 all of the bonds issued by--the--board to finance the construction or acquisition thereof, if any, and of all 6 interest thereon and costs and expenses incurred in 7 connection with any action or proceeding by or on behalf of 8 the holders of the bonds. The department shall make a 9 10 determination of the market value of the water project prior to its sale or other disposition. The department's 11 12 determination of market value shall consider all liens, 13 encumbrances, and other limitations on the water project." Section 2. Section 85-1-211, MCA, is amended to read: 14 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 resources and facilities made available under this chapter 18 19 may be sold and disposed of and enter into contracts and 20 agreements and do those things which in its judgment are necessary, convenient, or expedient for the accomplishment 21 22 of the purposes and objects of this chapter, under such general rules and upon such terms, limitations, and 23 conditions as it prescribes. 24

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

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fix and establish the prices, rates, and charges so as to provide at all times funds which will be sufficient to pay all costs of operation and maintenance of the works authorized by this chapter, together with necessary repairs thereto, and which will provide at all times sufficient funds to meet and pay the principal and interest of all 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 the sale of any property or facilities shall provide that, 14 in the event of a failure or default in the payment of 15 moneys specified in the contract to be paid to the 16 department, the department may, upon notice as is prescribed 17 18 in the contract, terminate the contract and all obligations 19 thereunder. The act of the department in ceasing on default to furnish or deliver water, use of water, water storage, or 20 other service under the contract does not deprive the 21 department of or limit any remedy provided by the contract 22 23 or by law for the recovery of moneys due or which may become due under the contract. 24

-3-

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

85-1-202, the department may sell, transfer to water user 1 2 associations, abandon, or otherwise dispose of any 3 rights-of-way, easements, or---property properties, or interests, or lease or rent the same or otherwise take and 4 receive the income or profit and revenue therefrom. Prior to 5 the department's sale, transfer, or other disposition, A a 6 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, or otherwise disposed of. The department's determination of 10 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 the invalid part remain in effect. If a part of this act is 19 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 <u>NEW SECTION.</u> Section 5. Effective date. This act is
24 effective July 1, 1987.

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-4-

HB **388** 

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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
7	DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION MAY

SELL. LEASE, OR OTHERWISE DISPOSE OF WATER PROJECTS WITHOUT REGARD 8 TO OTHER LAWS PROVIDING FOR DISPOSITION OF STATE PROPERTY; 9 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 sell, lease, or otherwise dispose of waters for the purpose 21 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

other uses and for fire protection without regard to other 1 laws providing for the disposition of state property. The 2 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 the holders of the bonds. The department shall make a 9 10 determination of the market value of the water project prior 11 ta its sale or other disposition. The department's determination of market value shall consider all liens, 12 13 encumbrances, and other limitations on the water project." 14 Section 2. Section 85-1-211, MCA, is amended to read: "85-1-211. Management of property -- water contracts. 15 16 (1) Subject to this chapter, the department may fix and 17 establish the prices, rates, and charges at which the resources and facilities made available under this chapter 18 may be sold and disposed of and enter into contracts and 19 agreements and do those things which in its judgment are 20 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

-2-

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HB 300 Third Reading

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fix and establish the prices, rates, and charges so as to 1 2 provide at all times funds which will be sufficient to pay all costs of operation and maintenance of the works 3 authorized by this chapter, together with necessary repairs 4 thereto, and which will provide at all times sufficient 5 funds to meet and pay the principal and interest of all 6 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 as established by any contract entered into under this 10 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, in the event of a failure or default in the payment of 15 moneys specified in the contract to be paid to the 16 17 department, the department may, upon notice as is prescribed 18 in the contract, terminate the contract and all obligations thereunder. The act of the department in ceasing on default 19 20 to furnish or deliver water, use of water, water storage, or 21 other service under the contract does not deprive the department of or limit any remedy provided by the contract 22 or by law for the recovery of moneys due or which may become 23 24 due under the contract.

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

-3-

HB 388

85-1-202, the department may sell, transfer to water user 2 associations, abandon, or otherwise dispose of any rights-of-way, easements, or---property properties, or 3 4 interests, or lease or rent the same or otherwise take and receive the income or profit and revenue therefrom, Prior to 5 the department's sale, transfer, or other disposition, A a 6 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.

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

-End-

-4-

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3	BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES
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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 STATE-OWNED WATER
11	PROJECT MUST INCLUDE ALL ENCUMBRANCES AND LIMITATIONS ON THE
12	PROJECT, AND THAT THE DEPARTMENT'S AUTHORITY HEREUNDER MAY
13	BE EXERCISED WITHOUT REGARD TO OTHER LAWS PROVIDING FOR
14	DISPOSITION OF STATE PROPERTIES; TO REMOVE THE REFERENCE TO
15	THE BOARD OF NATURAL RESOURCES AND CONSERVATION TO REFLECT
16	THAT WATER BONDS MAY BE ISSUED BY A VARIETY OF AUTHORITIES;
17	AMENDING SECTIONS 85-1-210 AND 85-1-211, MCA; AND PROVIDING
18	AN EFFECTIVE DATE."

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 "85-1-210. Disposal of property by department. In
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 sell, lease, or otherwise dispose of waters for the purpose
 of irrigation, development of power, watering of stock, or



1 other purposes, the department, with the approval of the 2 board, may sell, lease, or otherwise dispose of waters from 3 its waterworks systems for public, domestic, industrial, and other uses and for fire protection without-regard-to-other ۵ laws-providing-for-the-disposition-of--state--property. 5 The 6 department, with the approval of the board, may sell or 7 otherwise dispose of a water project, after the discharge of all of the bonds issued by--the--board to finance the 8 9 construction or acquisition thereof, if any, and of all 10 interest thereon and costs and expenses incurred in 11 connection with any action or proceeding by or on behalf of the holders of the bonds. The department shall make a 12 determination of the market value of the water project prior 13 its sale or other disposition. The department's 14 to determination of market value shall consider all liens, 15 16 encumbrances, and other limitations on the water project." Section 2. Section 85-1-211, MCA, is amended to read; 17 18 "85-1-211. Management of property -- water contracts. (1) Subject to this chapter, the department may fix and 19 20 establish the prices, rates, and charges at which the 21 resources and facilities made available under this chapter may be sold and disposed of and enter into contracts and 22 agreements and do those things which in its judgment are 23 24 necessary, convenient, or expedient for the accomplishment of the purposes and objects of this chapter, under such 25

-2-

REFERENCE BILL

HB 388

general rules and upon such terms, limitations, and
 conditions as it prescribes.

З (2) The department shall enter into the contracts and 4 fix and establish the prices, rates, and charges so as to 5 provide at all times funds which will be sufficient to pay 6 all costs of operation and maintenance of the works 7 authorized by this chapter, together with necessary repairs 8 thereto, and which will provide at all times sufficient funds to meet and pay the principal and interest of all 9 10 bonds or loans as they severally become due and payable.

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or by law for the recovery of moneys due or which may become
 due under the contract.

з (5) Subject to the approval of the board under 4 85-1-202, the department may sell, transfer to water user associations. abandon, or otherwise dispose of any 5 rights-of-way, easements, or---property properties, or 6 7 interests, or lease or rent the same or otherwise take and 8 receive the income or profit and revenue therefrom WITHOUT REGARD TO OTHER LAWS PROVIDING FOR THE DISPOSITION OF STATE 9 10 PROPERTY. Prior to the department's sale, transfer, or other disposition, A a determination shall be made by the 11 12 department as to the market value of the rights-of-way, 13 easements, or property properties, or interests to be sold, 14 transferred, abandoned, or otherwise disposed of. The 15 department's determination of market value shall consider 16 all liens, encumbrances, and other limitations on the 17 project properties or interests." 18 NEW SECTION. Section 3. Extension of authority, Any

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

22 <u>NEW SECTION.</u> Section 4. Severability. If a part of 23 this act is invalid, all valid parts that are severable from 24 the invalid part remain in effect. If a part of this act is 25 invalid in one or more of its applications, the part remains

-4-

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### HB 0388/03

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1 in effect in all valid applications that are severable from

2 the invalid applications.

3 <u>NEW SECTION.</u> Section 5. Effective date. This act is

4 effective July 1, 1987.

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