

HOUSE BILL NO. 122

INTRODUCED BY ANDERSON
BY REQUEST OF THE DEPARTMENT OF
FISH, WILDLIFE, AND PARKS

IN THE HOUSE

JANUARY 8, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON FISH AND GAME.
	FIRST READING.
JANUARY 21, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 22, 1993	PRINTING REPORT.
JANUARY 23, 1993	SECOND READING, DO PASS.
JANUARY 25, 1993	ENGROSSING REPORT.
JANUARY 26, 1993	THIRD READING, PASSED. AYES, 96; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 28, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON FISH AND GAME.
	FIRST READING.
MARCH 3, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 4, 1993	SECOND READING, CONCURRED IN.
MARCH 5, 1993	THIRD READING, CONCURRED IN. AYES, 46; NOES, 2.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 6, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 122
2 INTRODUCED BY Amelia Williams
3 BY REQUEST OF THE DEPARTMENT OF FISH,
4 WILDLIFE, AND PARKS
5

6 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING NONMONETARY
7 LEASE TRANSACTIONS BY THE DEPARTMENT OF FISH, WILDLIFE, AND
8 PARKS IN EXCHANGE FOR SERVICES RENDERED ON THE LEASED LANDS;
9 AMENDING SECTION 87-1-209, MCA; AND PROVIDING AN IMMEDIATE
10 EFFECTIVE DATE."
11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 87-1-209, MCA, is amended to read:

14 **"87-1-209. Acquisition and sale of lands or waters. (1)**
15 The department, with the consent of the commission and, in
16 the case of land acquisition involving more than 100 acres
17 or \$100,000 in value, the approval of the board of land
18 commissioners, may acquire by purchase, lease, agreement,
19 gift, or devise and may acquire easements upon lands or
20 waters for the purposes listed in this subsection. The
21 department may develop, operate, and maintain acquired lands
22 or waters:

23 (a) for fish hatcheries, nursery ponds, or game farms;

24 (b) as lands or water suitable for game, bird, fish, or
25 fur-bearing animal restoration, propagation, or protection;

1 (c) for public hunting, fishing, or trapping areas;
2 (d) to capture, propagate, transport, buy, sell, or
3 exchange any game, birds, fish, fish eggs, or fur-bearing
4 animals needed for propagation or stocking purposes or to
5 exercise control measures of undesirable species;

6 (e) for state parks and outdoor recreation;

7 (f) to extend and consolidate by exchange, lands or
8 waters suitable for these purposes.

9 (2) The department, with the consent of the commission,
10 may acquire by condemnation lands or structures for the
11 preservation of historical or archaeological sites that are
12 threatened with destruction or alteration.

13 (3) (a) The department, with the consent of the
14 commission, may dispose of lands and waters acquired by it
15 on those terms after public notice as required by subsection
16 (3)(b), without regard to other laws ~~which~~ that provide for
17 sale or disposal of state lands and with or without
18 reservation, as it considers necessary and advisable.

19 (b) Notice of sale describing the lands or waters to be
20 disposed of ~~shall~~ must be published once a week for 3
21 successive weeks in a newspaper with general circulation
22 printed and published in the county where the lands or
23 waters are situated or, if no newspaper is published in that
24 county, then in any newspaper with general circulation in
25 that county.

(c) The notice ~~shall~~ must advertise for cash bids to be presented to the director within 60 days from the date of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal to 10% of the amount bid. The highest bid ~~shall~~ must be accepted upon payment of the balance due within 10 days after mailing notice by registered--or certified mail to the highest bidder. If that bidder defaults on payment of the balance due, then the next highest bidders ~~shall~~ must be similarly notified in succession until a sale is completed. Deposits ~~shall~~ must be returned to the unsuccessful bidders except bidders defaulting after notification.

(d) The department shall reserve the right to reject any bids which that do not equal or exceed the full market value of the lands and waters as determined by the department. If the department does not receive a bid that equals or exceeds fair market value, it may then sell the lands or waters at private sale. The price accepted on any private sale must exceed the highest bid rejected in the bid process. The department shall convey the lands and waters without covenants of warranty by deed executed by the governor or in his the governor's absence or disability by the lieutenant governor, attested by the secretary of state and further countersigned by the director.

(4) The department, with the consent of the commission,

is authorized to utilize the installment contract method to facilitate the acquisition of wildlife ~~management~~ areas in which game and nongame fur-bearing animals and game and nongame birds may breed and replenish and areas which that provide access to fishing sites for the public. In no case may the total cost of such installment contracts exceed the cost of purchases authorized by the department and appropriated by the legislature.

(5) The department is authorized to enter into leases of land under its control in exchange for services to be provided by the lessee on the leased land."

NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0122, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing nonmonetary lease transactions by the Department of Fish, Wildlife & Parks in exchange for services rendered on the leased land.

ASSUMPTIONS:

1. All lease-outs require commission authorization.
2. The only non-cash payment lease arrangements that will be acceptable are where some property use (grazing, farming, etc.) would be exchanged for services (labor). No leases will be approved which involve goods.
3. Services rendered from such arrangements may only be provided on the site where the value was derived.
4. Service payment lease transactions will only be approved if the activity directly relates to maintaining the site in its existing condition.

FISCAL IMPACT:

No fiscal impact.

David Lewis 1-13-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Shiell W. Anderson 1-13-93
SHIELL W. ANDERSON, PRIMARY SPONSOR DATE

Fiscal Note for HB0122, as introduced

HB 122

APPROVED BY COMM.
ON FISH AND GAME

1 House BILL NO. 122
2 INTRODUCED BY Amel W. Anderson
3 BY REQUEST OF THE DEPARTMENT OF FISH,
4 WILDLIFE, AND PARKS
5
6 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING NONMONETARY
7 LEASE TRANSACTIONS BY THE DEPARTMENT OF FISH, WILDLIFE, AND
8 PARKS IN EXCHANGE FOR SERVICES RENDERED ON THE LEASED LANDS;
9 AMENDING SECTION 87-1-209, MCA; AND PROVIDING AN IMMEDIATE
10 EFFECTIVE DATE."
11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13 **Section 1.** Section 87-1-209, MCA, is amended to read:
14 **"87-1-209. Acquisition and sale of lands or waters. (1)**
15 The department, with the consent of the commission and, in
16 the case of land acquisition involving more than 100 acres
17 or \$100,000 in value, the approval of the board of land
18 commissioners, may acquire by purchase, lease, agreement,
19 gift, or devise and may acquire easements upon lands or
20 waters for the purposes listed in this subsection. The
21 department may develop, operate, and maintain acquired lands
22 or waters:
23 (a) for fish hatcheries, nursery ponds, or game farms;
24 (b) as lands or water suitable for game, bird, fish, or
25 fur-bearing animal restoration, propagation, or protection;

1 (c) for public hunting, fishing, or trapping areas;
2 (d) to capture, propagate, transport, buy, sell, or
3 exchange any game, birds, fish, fish eggs, or fur-bearing
4 animals needed for propagation or stocking purposes or to
5 exercise control measures of undesirable species;
6 (e) for state parks and outdoor recreation;
7 (f) to extend and consolidate by exchange, lands or
8 waters suitable for these purposes.
9 (2) The department, with the consent of the commission,
10 may acquire by condemnation lands or structures for the
11 preservation of historical or archaeological sites that are
12 threatened with destruction or alteration.
13 (3) (a) The department, with the consent of the
14 commission, may dispose of lands and waters acquired by it
15 on those terms after public notice as required by subsection
16 (3)(b), without regard to other laws ~~which~~ that provide for
17 sale or disposal of state lands and with or without
18 reservation, as it considers necessary and advisable.
19 (b) Notice of sale describing the lands or waters to be
20 disposed of ~~shall~~ must be published once a week for 3
21 successive weeks in a newspaper with general circulation
22 printed and published in the county where the lands or
23 waters are situated or, if no newspaper is published in that
24 county, then in any newspaper with general circulation in
25 that county.

1 (c) The notice ~~shall~~ must advertise for cash bids to be
 2 presented to the director within 60 days from the date of
 3 the first publication. Each bid must be accompanied by a
 4 cashier's check or cash deposit in an amount equal to 10% of
 5 the amount bid. The highest bid ~~shall~~ must be accepted upon
 6 payment of the balance due within 10 days after mailing
 7 notice by ~~registered--or~~ certified mail to the highest
 8 bidder. If that bidder defaults on payment of the balance
 9 due, then the next highest bidders ~~shall~~ must be similarly
 10 notified in succession until a sale is completed. Deposits
 11 ~~shall~~ must be returned to the unsuccessful bidders except
 12 bidders defaulting after notification.

13 (d) The department shall reserve the right to reject
 14 any bids which that do not equal or exceed the full market
 15 value of the lands and waters as determined by the
 16 department. If the department does not receive a bid that
 17 equals or exceeds fair market value, it may then sell the
 18 lands or waters at private sale. The price accepted on any
 19 private sale must exceed the highest bid rejected in the bid
 20 process. The department shall convey the lands and waters
 21 without covenants of warranty by deed executed by the
 22 governor or in ~~his~~ the governor's absence or disability by
 23 the lieutenant governor, attested by the secretary of state
 24 and further countersigned by the director.

25 (4) The department, with the consent of the commission,

1 is authorized to utilize the installment contract method to
 2 facilitate the acquisition of wildlife management areas in
 3 which game and nongame fur-bearing animals and game and
 4 nongame birds may breed and replenish and areas which that
 5 provide access to fishing sites for the public. In no case
 6 may the total cost of such installment contracts exceed the
 7 cost of purchases authorized by the department and
 8 appropriated by the legislature.

9 (5) The department is authorized to enter into leases
 10 of land under its control in exchange for services to be
 11 provided by the lessee on the leased land."

12 NEW SECTION. Section 2. Effective date. [This act] is
 13 effective on passage and approval.

-End-

House BILL NO. 122

INTRODUCED BY Alfred C. ...
BY REQUEST OF THE DEPARTMENT OF FISH,
WILDLIFE, AND PARKS

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING NONMONETARY
LEASE TRANSACTIONS BY THE DEPARTMENT OF FISH, WILDLIFE, AND
PARKS IN EXCHANGE FOR SERVICES RENDERED ON THE LEASED LANDS;
AMENDING SECTION 87-1-209, MCA; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE."

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

Section 1. Section 87-1-209, MCA, is amended to read:

"87-1-209. Acquisition and sale of lands or waters. (1)

The department, with the consent of the commission and, in
the case of land acquisition involving more than 100 acres
or \$100,000 in value, the approval of the board of land
commissioners, may acquire by purchase, lease, agreement,
gift, or devise and may acquire easements upon lands or
waters for the purposes listed in this subsection. The
department may develop, operate, and maintain acquired lands
or waters:

(a) for fish hatcheries, nursery ponds, or game farms;

(b) as lands or water suitable for game, bird, fish, or
fur-bearing animal restoration, propagation, or protection;

(c) for public hunting, fishing, or trapping areas;

(d) to capture, propagate, transport, buy, sell, or
exchange any game, birds, fish, fish eggs, or fur-bearing
animals needed for propagation or stocking purposes or to
exercise control measures of undesirable species;

(e) for state parks and outdoor recreation;

(f) to extend and consolidate by exchange, lands or
waters suitable for these purposes.

(2) The department, with the consent of the commission,
may acquire by condemnation lands or structures for the
preservation of historical or archaeological sites that are
threatened with destruction or alteration.

(3) (a) The department, with the consent of the
commission, may dispose of lands and waters acquired by it
on those terms after public notice as required by subsection
(3)(b), without regard to other laws which that provide for
sale or disposal of state lands and with or without
reservation, as it considers necessary and advisable.

(b) Notice of sale describing the lands or waters to be
disposed of ~~shall~~ must be published once a week for 3
successive weeks in a newspaper with general circulation
printed and published in the county where the lands or
waters are situated or, if no newspaper is published in that
county, then in any newspaper with general circulation in
that county.

1 (c) The notice ~~shall~~ must advertise for cash bids to be
 2 presented to the director within 60 days from the date of
 3 the first publication. Each bid must be accompanied by a
 4 cashier's check or cash deposit in an amount equal to 10% of
 5 the amount bid. The highest bid ~~shall~~ must be accepted upon
 6 payment of the balance due within 10 days after mailing
 7 notice by registered--or certified mail to the highest
 8 bidder. If that bidder defaults on payment of the balance
 9 due, then the next highest bidders ~~shall~~ must be similarly
 10 notified in succession until a sale is completed. Deposits
 11 ~~shall~~ must be returned to the unsuccessful bidders except
 12 bidders defaulting after notification.

13 (d) The department shall reserve the right to reject
 14 any bids which that do not equal or exceed the full market
 15 value of the lands and waters as determined by the
 16 department. If the department does not receive a bid that
 17 equals or exceeds fair market value, it may then sell the
 18 lands or waters at private sale. The price accepted on any
 19 private sale must exceed the highest bid rejected in the bid
 20 process. The department shall convey the lands and waters
 21 without covenants of warranty by deed executed by the
 22 governor or in ~~his~~ the governor's absence or disability by
 23 the lieutenant governor, attested by the secretary of state
 24 and further countersigned by the director.

25 (4) The department, with the consent of the commission,

1 is authorized to utilize the installment contract method to
 2 facilitate the acquisition of wildlife management areas in
 3 which game and nongame fur-bearing animals and game and
 4 nongame birds may breed and replenish and areas which that
 5 provide access to fishing sites for the public. In no case
 6 may the total cost of such installment contracts exceed the
 7 cost of purchases authorized by the department and
 8 appropriated by the legislature.

9 (5) The department is authorized to enter into leases
 10 of land under its control in exchange for services to be
 11 provided by the lessee on the leased land."

12 NEW SECTION. Section 2. Effective date. [This act] is
 13 effective on passage and approval.

-End-

HOUSE BILL NO. 122
INTRODUCED BY ANDERSON
BY REQUEST OF THE DEPARTMENT OF FISH,
WILDLIFE, AND PARKS

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING NONMONETARY
LEASE TRANSACTIONS BY THE DEPARTMENT OF FISH, WILDLIFE, AND
PARKS IN EXCHANGE FOR SERVICES RENDERED ON THE LEASED LANDS;
AMENDING SECTION 87-1-209, MCA; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE."

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

Section 1. Section 87-1-209, MCA, is amended to read:

"87-1-209. Acquisition and sale of lands or waters. (1)

The department, with the consent of the commission and, in
the case of land acquisition involving more than 100 acres
or \$100,000 in value, the approval of the board of land
commissioners, may acquire by purchase, lease, agreement,
gift, or devise and may acquire easements upon lands or
waters for the purposes listed in this subsection. The
department may develop, operate, and maintain acquired lands
or waters:

(a) for fish hatcheries, nursery ponds, or game farms;

(b) as lands or water suitable for game, bird, fish, or
fur-bearing animal restoration, propagation, or protection;

(c) for public hunting, fishing, or trapping areas;

(d) to capture, propagate, transport, buy, sell, or
exchange any game, birds, fish, fish eggs, or fur-bearing
animals needed for propagation or stocking purposes or to
exercise control measures of undesirable species;

(e) for state parks and outdoor recreation;

(f) to extend and consolidate by exchange, lands or
waters suitable for these purposes.

(2) The department, with the consent of the commission,
may acquire by condemnation lands or structures for the
preservation of historical or archaeological sites that are
threatened with destruction or alteration.

(3) (a) The department, with the consent of the
commission, may dispose of lands and waters acquired by it
on those terms after public notice as required by subsection
(3)(b), without regard to other laws which that provide for
sale or disposal of state lands and with or without
reservation, as it considers necessary and advisable.

(b) Notice of sale describing the lands or waters to be
disposed of ~~shall~~ must be published once a week for 3
successive weeks in a newspaper with general circulation
printed and published in the county where the lands or
waters are situated or, if no newspaper is published in that
county, then in any newspaper with general circulation in
that county.

(c) The notice ~~shall~~ must advertise for cash bids to be presented to the director within 60 days from the date of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal to 10% of the amount bid. The highest bid ~~shall~~ must be accepted upon payment of the balance due within 10 days after mailing notice by ~~registered--or~~ certified mail to the highest bidder. If that bidder defaults on payment of the balance due, then the next highest bidders ~~shall~~ must be similarly notified in succession until a sale is completed. Deposits ~~shall~~ must be returned to the unsuccessful bidders except bidders defaulting after notification.

(d) The department shall reserve the right to reject any bids ~~which~~ that do not equal or exceed the full market value of the lands and waters as determined by the department. If the department does not receive a bid that equals or exceeds fair market value, it may then sell the lands or waters at private sale. The price accepted on any private sale must exceed the highest bid rejected in the bid process. The department shall convey the lands and waters without covenants of warranty by deed executed by the governor or in his the governor's absence or disability by the lieutenant governor, attested by the secretary of state and further countersigned by the director.

(4) The department, with the consent of the commission,

is authorized to utilize the installment contract method to facilitate the acquisition of wildlife management areas in which game and nongame fur-bearing animals and game and nongame birds may breed and replenish and areas ~~which~~ that provide access to fishing sites for the public. In no case may the total cost of such installment contracts exceed the cost of purchases authorized by the department and appropriated by the legislature.

(5) The department is authorized to enter into leases of land under its control in exchange for services to be provided by the lessee on the leased land."

NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

-End-