

HOUSE BILL 214

Introduced by M. Hanson, et al.

1/16	Introduced
1/16	Referred to Fish & Game
1/16	First Reading
1/18	Fiscal Note Requested
1/22	Fiscal Note Received
1/22	Fiscal Note Printed
2/02	Hearing
2/18	Tabled in Committee

House BILL NO. 214

INTRODUCED BY Mr. Hansen

9/1/93 Feland DeBryngaker

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE FEE TITLE HOLDINGS BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS OF LANDS UNDER THE WILDLIFE HABITAT ACQUISITION PROGRAM TO LANDS ACQUIRED ON OR BEFORE JUNE 1, 1993; REQUIRING THE DEPARTMENT TO DIVEST ITSELF OF AN EQUAL AMOUNT OF ACREAGE FOR PROPERTY ACQUIRED AFTER THAT DATE; INCLUDING THE FEE TITLE LIMITATION AS A POLICY CONSIDERATION APPLIED BY THE FISH, WILDLIFE, AND PARKS COMMISSION WHEN THE FEE TITLE ACQUISITION OF HABITAT LANDS IS CONTEMPLATED; AMENDING SECTIONS 87-1-209 AND 87-1-241, MCA; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, the Legislature recognizes the importance of maintaining wildlife habitat acquired by the Department of Fish, Wildlife, and Parks through the wildlife habitat acquisition program; and

WHEREAS, the Legislature also recognizes the concept of no net gain in fee title acreage of lands acquired through the program.

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 Subject to the restrictions on acquisition of land imposed under subsection (5), 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 a newspaper is not 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 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~~ The total cost of such installment contracts may not exceed the cost of purchases authorized by the department and appropriated by the legislature.

(5) In acquiring fee title to lands acquired for wildlife management areas under 87-1-241 and 87-1-242, the department may not exceed the total amount of acreage held in fee title on June 1, 1993. If the department acquires

1 additional acreage in fee title for wildlife management  
 2 areas after June 1, 1993, the department must divest itself  
 3 of fee title to an equal acreage amount."

4 **Section 2.** Section 87-1-241, MCA, is amended to read:

5 "87-1-241. (Temporary) Acquisition of wildlife habitat  
 6 -- rules. (1) Before acquisition of any interest in land for  
 7 the primary purpose of securing wildlife habitat the  
 8 commission shall by rule establish a policy for making such  
 9 acquisitions that includes the fee title limitations imposed  
 10 under 87-1-209(5). With regard to any specific acquisition  
 11 the policy ~~shall~~ must provide for a comprehensive analysis  
 12 of:

13 (a) the wildlife populations and use currently  
 14 associated with the property;

15 (b) the potential value of the land for protection,  
 16 preservation, and propagation of wildlife;

17 (c) management goals proposed for the land and wildlife  
 18 populations, and where feasible, any additional uses of the  
 19 land such as livestock grazing or timber harvest;

20 (d) any potential impacts to adjacent private land  
 21 resulting from proposed management goals, and plans to  
 22 address such impacts;

23 (e) any significant potential social and economic  
 24 impacts to affected local governments and the state,  
 25 including but not limited to impacts on:

1 (i) tax revenue available for the operation of taxing  
 2 jurisdictions within the county;

3 (ii) services required to be provided by local  
 4 governments;

5 (iii) employment opportunities within the counties;

6 (iv) local schools; and

7 (v) private businesses supplying goods and services to  
 8 the community;

9 (f) a land maintenance program to control weeds and  
 10 maintain roads and fences; and

11 (g) any other matter considered necessary or  
 12 appropriate by the commission.

13 (2) The analysis made of any proposed acquisition must  
 14 be made available for review by each owner of land adjacent  
 15 to the property that is the subject of analysis, and to any  
 16 member of the public. A public hearing must be held in the  
 17 affected area after the analysis has been made available to  
 18 the public.

19 (3) In securing interests in land for the purpose of  
 20 protecting and enhancing wildlife habitat, the commission  
 21 shall use leases, cooperative management agreements,  
 22 conservation easements, or fee title acquisitions. Fee title  
 23 acquisition is subject to the acreage limitations set out in  
 24 87-1-209(5). (Terminates March 1, 1996--sec. 3, Ch. 319, L.  
 25 1991.)"

LC 1042/01

- 1        NEW SECTION.   **Section 3.**   Effective   date. {This act} is
- 2        effective June 1, 1993.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0214, as introduced.

**DESCRIPTION OF PROPOSED LEGISLATION:** An act limiting the fee title holdings by the Department of Fish, Wildlife and Parks of lands under the wildlife habitat acquisition program to lands acquired on or before June 1, 1993, requiring the department to divest itself of an equal amount of acreage for property acquired after that date and including the fee title limitation as a policy consideration applied by the Fish, Wildlife and Parks Commission when the fee title acquisition of habitat lands is contemplated.

**ASSUMPTIONS:**

1. The sale of properties purchased with federal dollars are subject to several restrictions. They must be exchanged for land of equal value at current market prices and equal benefit of original purposes. The USFWS will not approve a disposal or transfer of any land that still provides benefit to the wildlife program.
2. The cost of monitoring and maintaining leases, cooperative management agreements, and conservation easements is greater than for fee title acquisitions.
3. Because of the federal restrictions tied to the majority of FWP Wildlife Management Areas, land disposals are more time consuming, staff extensive and expensive than land acquisitions. These restrictions are due to federal funds being utilized to purchase the majority of state wildlife management areas. All or part of 28 wildlife management areas were purchased with federal dollars.
4. In complying with the equal acreage provision, the department would incur about \$12,300 of additional expenses related to the disposal of each site. These costs would include land surveys, appraisal costs, title insurance policies, and cultural surveys. Moreover, additional personnel would be needed to prepare legal notices, agreements and documents, advertise property, handle inquiries and conduct sealed bid openings. The additional workload identified in assumptions 3 and 4 would require a 1.00 FTE land agent, grade 14.
5. There will be three wildlife habitat purchases/sales per year.
6. This legislation applies only to wildlife habitat acquisitions and does not affect fishing access site acquisitions.

**FISCAL IMPACT:****Expenditures:**

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
FTE	0.00	1.00	1.00	0.00	1.00	1.00
Personal Services	0	30,368	30,368	0	30,568	30,568
Operating Expenses	0	36,900	36,900	0	36,900	36,900
Total	0	\$67,268	\$67,268	0	\$67,468	\$67,468

**Funding:**

State Special Revenue	0	\$67,268	\$67,268	0	\$67,468	\$67,468
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(Continued)

*David Lewis* 1-22-93  
 DAVID LEWIS, BUDGET DIRECTOR DATE  
 Office of Budget and Program Planning

*Marian W. Hanson* 1-22-93  
 MARIAN W. HANSON, PRIMARY SPONSOR DATE

Fiscal Note for HB0214, as introduced**HB 214**

Revenues:

All revenue from the sale of department lands (except federal revenue which must be returned to the USFWS) will be placed in the department's real property trust. Interest from this trust will be spent on operation, development and maintenance of department property.

Net Impact:

The department would incur an additional \$67,268 of expenditures in FY94 and \$67,468 in FY95. Department revenue would increase due to additional interest revenue from the department's real property trust.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Socio-economic studies required by the legislature have documented the positive economic benefits to local and state economies as a result of department purchase of wildlife habitat. Some counties might receive increased property taxes if department lands were sold to private individuals.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The department encounters many individuals who are willing to discuss fee acquisition of their property but who are not interested in conservation easements or lease. Opportunities to acquire an interest in critical habitat would be lost.

Opportunities of market timing would be lost with respect to the acquisition and disposal of department lands.

TECHNICAL NOTES:

Restrictions tied to federal monies used in purchasing the majority of the wildlife management areas require replacement of wildlife values if federally-funded properties are sold.