

## 1 HOUSE BILL NO. 454

2 INTRODUCED BY P. CONNELL

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT AT LEAST 20% OF THE LANDS OR WATERS  
5 ACQUIRED BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS BE MANAGED FOR MULTIPLE-USE  
6 PURPOSES; AMENDING SECTION 87-1-209, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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8 WHEREAS, the Legislature is aware that the Department of Fish, Wildlife, and Parks is acquiring  
9 substantial property without making those lands available to Montanans for multiple-use purposes; and

10 WHEREAS, the Legislature finds that it is in the best interests of the people of the State of Montana to  
11 ensure that a portion of any land acquired by the Department of Fish, Wildlife, and Parks is reserved for  
12 multiple-use purposes.

13

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

15

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

17 **"87-1-209. (Temporary) Acquisition and sale of land or water.** (1) Subject to 87-1-218, the  
18 department, with the consent of the commission and, in the case of land acquisition involving more than 100  
19 acres or \$100,000 in value, the approval of the board of land commissioners, may acquire by purchase, lease,  
20 agreement, gift, or devise and may acquire easements upon land or water for the purposes listed in this  
21 subsection. Any acquisition of land or water rights for purposes of this subsection, except that portion of  
22 acquisitions made with funds provided under 87-1-242(1), must include an additional 20% above the purchase  
23 price to be used for maintenance of land or water acquired by the department. The additional amount above the  
24 purchase price or \$300,000, whichever is less, must be deposited in the account established in 87-1-230. As used  
25 in this subsection, "maintenance" means that term as defined in and consistent with the good neighbor policy in  
26 23-1-127(2). The department may develop, operate, and maintain acquired land or water rights:

27 (a) for fish hatcheries or nursery ponds;

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

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

- 1 (d) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing  
2 animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;  
3 (e) for state parks and outdoor recreation;  
4 (f) to extend and consolidate by exchange, land or water rights suitable for these purposes;  
5 (g) for multiple-use purposes as provided in subsection (8).

6 (2) The department, with the consent of the commission, may acquire by condemnation, as provided in  
7 Title 70, chapter 30, land or structures for the preservation of historical or archaeological sites that are threatened  
8 with destruction or alteration.

9 (3) (a) Subject to section 2(3), Chapter 560, Laws of 2005, the department, with the consent of the  
10 commission, may dispose of land and water rights acquired by it on those terms after public notice as required  
11 by subsection (3)(b) of this section, without regard to other laws that provide for sale or disposal of state land and  
12 with or without reservation, as it considers necessary and advisable. The department, with the consent of the  
13 commission, may convey department land and water rights for full market value to other governmental entities  
14 or to adjacent landowners without regard to the requirements of subsection (3)(b) or (3)(c) if the land is less than  
15 10 acres or if the full market value of the interest to be conveyed is less than \$20,000. When the department  
16 conveys land or water rights to another governmental entity or to an adjacent landowner pursuant to this  
17 subsection, the department, in addition to giving notice pursuant to subsection (3)(b), shall give notice by mail  
18 to the landowners whose property adjoins the department property being conveyed.

19 (b) Subject to section 2(3), Chapter 560, Laws of 2005, notice of sale describing the land or water rights  
20 to be disposed of must be published once a week for 3 successive weeks in a newspaper with general circulation  
21 printed and published in the county where the land or water right is situated or, if a newspaper is not published  
22 in that county, then in any newspaper with general circulation in that county.

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

29 (d) The department shall reserve the right to reject any bids that do not equal or exceed the full market  
30 value of the land or water right as determined by the department. If the department does not receive a bid that

1 equals or exceeds fair market value, it may then sell the land or water rights at private sale. The price accepted  
2 on any private sale must exceed the highest bid rejected in the bid process.

3 (4) When necessary and advisable for the management and use of department property, the director  
4 is authorized to grant or acquire from willing sellers right-of-way easements for purposes of utilities, roads,  
5 drainage facilities, ditches for water conveyance, and pipelines if the full market value of the interest to be  
6 acquired is less than \$20,000. Whenever possible, easements must include a weed management plan. Approval  
7 of the commission is not required for grants and acquisitions made pursuant to this subsection. In granting any  
8 right-of-way pursuant to this subsection, the department shall obtain a fair market value, but the department is  
9 not otherwise required to follow the disposal requirements of subsection (3). The director shall report any  
10 easement grant or acquisition made pursuant to this subsection to the commission at its next regular meeting.

11 (5) The department shall convey land and water rights without covenants of warranty by deed executed  
12 by the governor or in the governor's absence or disability by the lieutenant governor, attested by the secretary  
13 of state and further countersigned by the director.

14 (6) Subject to 87-1-218, the department, with the consent of the commission, is authorized to utilize the  
15 installment contract method to facilitate the acquisition of wildlife management areas in which game and nongame  
16 fur-bearing animals and game and nongame birds may breed and replenish and areas that provide access to  
17 fishing sites for the public. The total cost of installment contracts may not exceed the cost of purchases authorized  
18 by the department and appropriated by the legislature.

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

21 (8) (a) If the department acquires lands or waters pursuant to this section, the department shall ensure  
22 that at least 20% of the lands or waters acquired are managed for multiple-use purposes.

23 (b) The department may adopt rules to administer the provisions of subsection (8)(a).

24 (c) For purposes of this section, "multiple-use purposes" includes, but is not limited to:

25 (i) livestock grazing;

26 (ii) farming;

27 (iii) haying;

28 (iv) fencing;

29 (v) timber harvesting;

30 (vi) snowmobiling;

1           (vii) off-highway vehicle use;  
2           (viii) cycling; and  
3           (ix) other similar outdoor recreational and land management activities. (Terminates June 30, 2013--sec.  
4 8, Ch. 427, L. 2009.)

5           **87-1-209. (Effective July 1, 2013) Acquisition and sale of lands or waters.** (1) Subject to 87-1-218,  
6 the department, with the consent of the commission and, in the case of land acquisition involving more than 100  
7 acres or \$100,000 in value, the approval of the board of land commissioners, may acquire by purchase, lease,  
8 agreement, gift, or devise and may acquire easements upon lands or waters for the purposes listed in this  
9 subsection. The department may develop, operate, and maintain acquired lands or waters:

- 10           (a) for fish hatcheries or nursery ponds;  
11           (b) as lands or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or  
12 protection;  
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15 animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;  
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17           (f) to extend and consolidate by exchange, lands or waters suitable for these purposes;  
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22           (3) (a) Subject to section 2(3), Chapter 560, Laws of 2005, the department, with the consent of the  
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12 (v) timber harvesting;

13 (vi) snowmobiling;

14 (vii) off-highway vehicle use;

15 (viii) cycling; and

16 (ix) other similar outdoor recreational and land management activities."

17  
18 **NEW SECTION. Section 2. Severability.** If a part of [this act] is invalid, all valid parts that are severable  
19 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part  
20 remains in effect in all valid applications that are severable from the invalid applications.

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22 **NEW SECTION. Section 3. Effective date.** [This act] is effective on passage and approval.

23 - END -