

SENATE BILL NO. 263

INTRODUCED BY B. BEARD

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING STATE OWNERSHIP OF LESSEE WATER RIGHTS USED ON STATE LANDS; REVISING AUTHORIZED IMPROVEMENT ON STATE LANDS RELATED TO WATER RIGHTS; PROVIDING FOR RESTRICTIONS ON STATE OWNERSHIP OF WATER RIGHTS; PROVIDING FOR DEPARTMENT REPORTING; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 77-6-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 77-6-301, MCA, is amended to read:

"77-6-301. Improvements authorized. (1) A lessee of state lands may place ~~upon~~on the lands a reasonable amount of improvements directly related to conservation of the land or necessary for proper utilization of it. These improvements may consist of fences, cultivation, improvement of the land itself, irrigation ditches, sheds, wells, reservoirs, water rights, and similar improvements.

(2) A water right owner with a state land lease may put water from a well or developed spring with a ground water development works located on private land to beneficial use on state trust land for the duration of a state land lease. The lessee may remove associated stock tanks and other stock water improvements without authorization from the department.

NEW SECTION. Section 2. Restrictions on state ownership of water right -- department reporting. (1) Except as provided in 85-2-441(2)(b) and unless authorized by the board pursuant to subsection (2) of this section, the department may not obtain an ownership interest in:

(a) a water right or the ground water development works of a water right that is diverted from a well or developed spring located on private land and put to beneficial use on state trust land; or

(b) a water right owned by lessee of state lands.

(2) (a) The department shall notify the lessee or water right owner of the department's intention to

1 obtain ownership of the water right 180 days before submitting that request to the board.

2 (b) The board shall allow the lessee or water right owner to have a representative at a board
3 hearing to submit testimony and evidence. The representative may be an attorney.

4 (c) If the board approves the department's request for an ownership interest in a water right, a
5 court of competent jurisdiction shall determine whether the state is the owner of the water right.

6 (3) Within 180 days of [the effective date of this act], the department shall provide to the board a
7 list of all water rights to which the department has obtained ownership from a lessee since July 1, 1982. The
8 board may request additional information from the department regarding any water right on the list. The board
9 may take additional action regarding a water right on the list after notice to the water right owners and lessees
10 involved.

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12 NEW SECTION. **Section 3. Codification instruction.** [Section 2] is intended to be codified as an
13 integral part of Title 77, chapter 1, part 1, and the provisions of Title 77, chapter 1, part 1, apply to [section 2].

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15 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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