

HOUSE BILL NO. 373

INTRODUCED BY B. GRUBBS, Z. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS GOVERNING ACQUISITION AND SALE OF COUNTY PROPERTY; CLARIFYING PROVISIONS FOR PERSONAL PROPERTY AND REAL PROPERTY; PROVIDING THAT TAX-DEED LAND NOT SOLD AT TWO CONSECUTIVE AUCTIONS BE RETAINED BY THE COUNTY; REQUIRING A BOARD OF COUNTY COMMISSIONERS TO ADOPT A RESOLUTION FOR PROCEDURES FOR SELLING, EXCHANGING, AND DONATING REAL PROPERTY; AMENDING SECTIONS 7-8-2201, 7-8-2211, 7-8-2212, 7-8-2213, 7-8-2216, 7-8-2217, 7-8-2231, 7-8-2301, 7-8-2501, 7-8-2513, 7-8-2515, AND 7-6-109, MCA; AND REPEALING SECTIONS 7-8-2202, 7-8-2210, 7-8-2219, 7-8-2233, 7-8-2308, 7-8-2502, 7-8-2504, 7-8-2505, 7-8-2506, 7-8-2507, 7-8-2508, 7-8-2509, 7-8-2511, AND 7-8-2512, MCA."

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

Section 1. Section 7-8-2201, MCA, is amended to read:

"7-8-2201. Authorization for county to obtain personal property. The board of county commissioners ~~has jurisdiction and power, under such limitations and restrictions as are prescribed by law, to may, subject to the provisions of this part,~~ purchase, receive by donation, or lease any ~~real or~~ personal property necessary for the use of the county ~~and to preserve, take care of, manage, and control the same."~~

Section 2. Section 7-8-2211, MCA, is amended to read:

"7-8-2211. Authorization to sell and exchange county property. (1) Boards of county commissioners of this state ~~have the power to~~ may, subject to the provisions of this part, sell, trade, or exchange any ~~real or~~ personal property, however acquired, belonging to the county that is not necessary to the conduct of county business or the preservation of its property.

(2) Whenever a county purchases equipment, as provided in 7-5-2301 and 7-5-2303 through 7-5-2308, county equipment that is not necessary to the conduct of the county business may be traded in as part of the purchase price after appraisal, as provided in 7-8-2214, or may be sold at public auction, as provided in 7-8-2212, in the discretion of the board.

(3) Any sale, trade, or exchange of ~~real or~~ personal property must be accomplished under the provisions of this title. ~~In an exchange of real property, the properties must be appraised, and an exchange of county property may not be made unless property received in exchange for the county property is of an equivalent value. If the properties are not of equivalent values, the exchange may be completed if a cash payment is made in addition to the delivery of title for property having the lesser value.~~

~~(4) If a county owns property containing a historically significant building or monument, the county may sell or give the property to nonprofit organizations or groups that agree to restore or preserve the property. The contract for the transfer of the property must contain a provision that:~~

~~(a) requires the property to be preserved in its present or restored state upon any subsequent transfer; and~~

~~(b) provides for the reversion of the property to the county for noncompliance with conditions attached to the transfer.~~

~~(5) A county may authorize the transfer of ownership of rural improvement district improvements as provided in 7-12-2128."~~

Section 3. Section 7-8-2212, MCA, is amended to read:

"7-8-2212. Notice of sale and public auction required for certain sales. Unless otherwise provided, if ~~real or~~ personal property to be sold is reasonably of a value in excess of \$2,500, the sale must be at public auction at a site determined by the board of county commissioners after notice by publication as provided in 7-1-2121. ~~Property described in 7-8-2211(4) is not subject to the requirements of this section."~~

Section 4. Section 7-8-2213, MCA, is amended to read:

"7-8-2213. Terms of sale. (1) ~~Except as provided in 7-8-2211(4), a~~ A sale under this part must be for cash or on terms that the board of county commissioners may approve, provided that at least 20% of the purchase price is paid in cash. All deferred payments on the purchase price of any personal property sold must bear interest at the rate of 6% a year, payable annually, and may be extended over a period of not more than 5 years.

(2) ~~Subject to 7-8-2211(4), a~~ A sale may not be made at public auction or to any school district without public auction for less than 90% of the appraised value.

(3) ~~Subject to 7-8-2211(4), the~~ The title to any property sold under the provisions of ~~7-8-2211 through~~

1 ~~7-8-2220~~ this part may not pass from the county until the purchaser or the purchaser's assigns have paid the full
2 amount of the purchase price into the county treasury for the use and benefit of the county."

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4 **Section 5.** Section 7-8-2216, MCA, is amended to read:

5 **"7-8-2216. Sale of county property to school district.** (1) The board of county commissioners shall
6 have the power to sell directly to the school district, without the necessity of a public auction, any ~~real or~~ personal
7 property, however acquired, ~~belonging that belongs~~ to the county and ~~which that~~ is not necessary to the conduct
8 of the county's business or the preservation of its property, for its appraised value, which ~~shall~~ must represent
9 a fair market value of ~~such the~~ property.

10 (2) If the property to be sold to the school district is reasonably of a value in excess of \$2,500, notice of
11 the sale ~~shall~~ must be given by publication as provided in 7-1-2121."

12
13 **Section 6.** Section 7-8-2217, MCA, is amended to read:

14 **"7-8-2217. Procedure for sale of property of lesser value.** (1) If the personal property to be sold is
15 valued at less than \$2,500, it may be sold at either a public or private sale as the board of county commissioners
16 determines to be to the best interests of the county.

17 (2) If the property is sold at public sale, notice must be given as provided in 7-1-2121.

18 (3) The board may, after a public hearing noticed as provided in 7-1-2121, adopt a policy for the sale of
19 personal property valued at less than \$2,500."

20
21 **Section 7.** Section 7-8-2231, MCA, is amended to read:

22 **"7-8-2231. Authorization to lease county property.** (1) The board of county commissioners has
23 jurisdiction and power, under limitations and restrictions that are prescribed by law, to lease and transfer county
24 property, however acquired, that is not necessary to the conduct of the county's business or the preservation of
25 county property and for which immediate sale cannot be had. The leases must be made in a manner and for
26 purposes that, in the judgment of the board, are best suited to advance the public benefit and welfare.

27 (2) Except as provided in ~~7-8-2233 and~~ 7-32-2201(5):

28 (a) all property must be leased subject to sale by the board; and

29 (b) a lease may not be for a period to exceed 10 years."
30

1 **Section 8.** Section 7-8-2301, MCA, is amended to read:

2 **"7-8-2301. Disposal of county tax-deed land.** (1) Whenever the county acquires land by tax deed, it
3 is the duty of the board of county commissioners, within 6 months after acquiring title, to enter an order to:

4 (a) sell the land at public auction;

5 (b) donate the land to a municipality, as provided in subsection (3), if the land is within the incorporated
6 boundaries of the municipality;

7 (c) donate the land or sell the land at a reduced price to a corporation as provided in subsection (3); or

8 (d) retain the land for the county as provided in subsection (3).

9 (2) When tax-deed land is to be sold, the sale may not be made for a price less than the sales price
10 determined and fixed by the board prior to making the order of sale. The sales price may be set in an amount
11 sufficient to recover the full amount of taxes, assessments, penalties, and interest due at the time the tax deed
12 was issued to the county plus the county's costs in taking the tax deed and in conducting the sale and additional
13 taxes due, if any, at the time of the sale.

14 (3) A board of county commissioners may, upon expiration of the repurchase period provided for in
15 7-8-2303:

16 (a) sell the land as provided in subsections (2) and (4);

17 (b) donate the land to a municipality with the consent of the municipality;

18 (c) donate the land or sell the land at a reduced price to a corporation for the purpose of constructing:

19 (i) a multifamily housing development operated by the corporation for low-income housing;

20 (ii) single-family houses. Upon completion of a house, the corporation shall sell the property to a
21 low-income person who meets the eligibility requirements of the corporation. Once the sale is completed, the
22 property becomes subject to taxation.

23 (iii) improvements to real property or modifying, altering, or repairing improvements to real property that
24 will enable the corporation, subject to the restrictions of Article X, section 6, of the Montana constitution, to pursue
25 purposes specified in the articles of incorporation of the corporation, including the sale, lease, rental, or other use
26 of the donated land and improvements;

27 (d) retain the land for the county pursuant to ~~7-8-2501~~.

28 (4) If bids are not received at a sale of tax-deed land, the board shall order another auction sale of the
29 land under this part within 6 months and may, if required by the circumstances, redetermine the sales price of
30 the land determined under subsection (2). In the period of time between the auction conducted under subsection

(1), in which there were not any qualifying bids for the land, and an auction held pursuant to this subsection, the board may sell the land by negotiated sale at a price that is not less than the sales price that was fixed for the original auction under subsection (1)(a) land is retained by the county and is subject to the provisions of part 25.

(5) If a bid is not received at the sale conducted under subsection (4), the board may dispose of the land as provided in ~~7-8-2218~~ part 25.

(6) Notwithstanding the amount of the sales price fixed by the board prior to the auction conducted under subsection (1)(a), if the successful sale bidder is the delinquent taxpayer or the taxpayer's successor in interest, the taxpayer's agent, or a member of the taxpayer's immediate family, the purchase price may not be less than the amount necessary to pay, in full, the taxes, assessments, penalties, and interest due on the land at the time of taking the tax deed plus interest on the full amount at the rate provided for in 15-16-102 from the date of the tax deed to the date of the repurchase as well as the costs of the county in taking the tax deed and additional taxes or assessments due, if any, at the time of repurchase.

(7) Land that is transferred pursuant to subsection (3)(c) must be used to permanently provide low-income housing. The transfer of the property may contain a reversionary clause to reflect this condition."

NEW SECTION. Section 9. Acquisition of real property. The board may purchase, receive by donation, or retain as provided in part 25 any real property that the board determines to be necessary or useful for the operation and management of the county.

NEW SECTION. Section 10. Appraisal required for certain purchases of real property or conservation easements. (1) Unless otherwise provided by law, a county may not purchase real property in an amount in excess of \$20,000 or a conservation easement using public funds in an amount in excess of \$80,000 unless the value of the property or conservation easement has been previously estimated by:

(a) a disinterested certified general real estate appraiser selected by the county commission, county attorney, and landowner; or

(b) three disinterested citizens of the county appointed by the district judge.

(2) A county may not pay more than the appraised value for the real property or conservation easement.

NEW SECTION. Section 11. Authorization to sell real property -- resolution required -- contents of resolution -- hearing required. (1) The board shall, after holding a public hearing noticed as provided in

7-1-2121, adopt a resolution providing for sale and disposition of county real property. The resolution must include:

(a) approved locations for sales, including whether sales may be conducted by use of an internet website or other online location;

(b) a requirement that all sale locations be accessible to the public;

(c) types of sales for which public auction is required;

(d) who may conduct a sale or auction;

(e) procedures for issuing permits, leases, or licenses, including:

(i) the terms, conditions, and processes for issuance of permits, leases, and licenses;

(ii) authorization to enter into agreements with entities to which permits, leases, or licenses may be issued;

(iii) a prohibition on a lease being made for an amount less than the amount that would have been collected if taxes on the real property had been levied; and

(iv) the process for authorizing a lessee to place improvements on the property;

(f) how sales will be noticed if the board intends to provide notice in addition to notice by publication as required in 7-1-2121;

(g) how property retained by the county will be administered and maintained; and

(h) any other provision that the board considers to be necessary for the disposition of property in a manner that is in the best interests of the county and its citizens.

(2) In adopting the resolution, consideration must be given to multiple-use management.

(3) Provisions in the resolution regarding exchanges or donations of real property must be in compliance with 7-8-2502 and [section 12].

NEW SECTION. Section 12. Exchange or donation of real property -- appraisal required. (1)

Subject to the provisions of this section and a resolution adopted pursuant to [section 11], the board may make trades, exchanges, or donations of real property owned by the county.

(2) In an exchange of real property, the properties must be appraised and an exchange of county property may not be made unless property received in exchange for the county property is of an equivalent value. If the properties are not of equivalent values, the exchange may be completed if a cash payment is made in addition to the delivery of title for property having the lesser value.

(3) If a county owns property containing a historically significant building or monument, the county may sell or give the property to nonprofit organizations or groups that agree to restore or preserve the property. The contract for the transfer of the property must contain a provision that:

(a) requires the property to be preserved in its current or restored state upon any subsequent transfer; and

(b) provides for the reversion of the property to the county for noncompliance with conditions attached to the transfer.

(4) A county may authorize the transfer of ownership of rural improvement district improvements as provided in 7-12-2128.

(5) A county may donate real property or sell the property at a reduced price to a corporation for the purpose of constructing:

(a) a multifamily housing development operated by the corporation for low-income housing;

(b) single-family houses. Upon completion of a house, the corporation shall sell the property to a low-income person who meets the eligibility requirements of the corporation. After the sale is completed, the property becomes subject to taxation.

(c) improvements to real property or modifying, altering, or repairing improvements to real property that will enable the corporation, subject to the restrictions of Article X, section 6, of the Montana constitution, to pursue purposes specified in the articles of incorporation of the corporation, including the sale, lease, rental, or other use of the donated land and improvements.

(6) Land that is transferred pursuant to subsection (5) must be used to permanently provide low-income housing. The transfer of the property may contain a reversionary clause to reflect this condition.

Section 13. Section 7-8-2501, MCA, is amended to read:

"7-8-2501. Purposes of part. The purposes of this part are:

~~———(1) to authorize a board of county commissioners to acquire real property and to establish criteria for the classification of unsold tax-deed lands and other county-owned lands, however acquired, and to classify such lands for retention or disposal in accordance with such criteria so that county-owned lands shall be procedures for the disposal of real property so that the property is used or disposed of in the best interests of the county and for the public benefit and welfare.~~

~~———(2) to encourage the application of a multiple-use principle in the utilization and administration of such~~

lands so that the administration of lands classified for retention can be coordinated with land use planning, zoning, grazing and agricultural land improvement, fish and wildlife habitat improvement and enhancement, recreation, access to other intermingled or adjacent multiple-use areas, and for any other appropriate uses which are in the best interests of the county or which will advance the public benefit and welfare; and
—— (3) to grant sufficient powers to the board to enable the board to achieve the foregoing purposes."

Section 14. Section 7-8-2513, MCA, is amended to read:

"7-8-2513. Appraisal of land required -- exception -- challenge -- RESTRICTIONS. (1) The county commissioners shall, before they sell, exchange, or lease lands with an estimated value of more than \$5,000 \$20,000 under the provisions of this part, ~~cause the lands to be~~ have the lands appraised by a ~~qualified, independent person, who may be but is not required to be an employee of the department of revenue,~~ DISINTERESTED CERTIFIED GENERAL REAL ESTATE APPRAISER to determine the value of the lands for the purpose of the sale, exchange, or lease.

(2) For the purposes of this section, a renewal of the lease is considered an initial lease if the renewal is for a term exceeding 5 years.

(3) The board of county commissioners may lease mineral interests in land, whether the interests are severed or not, without an appraisal as required by subsection (1).

(4) A taxpayer who believes that the appraised value under this section is less than the actual value of the property may challenge the appraised value. The procedure provided in 7-8-2215 must be followed when a challenge of the appraised value of real property under this part is filed.

(5) EXCEPT AS OTHERWISE PROVIDED BY LAW, THE BOARD OF COUNTY COMMISSIONERS MAY NOT UNDER THE PROVISIONS OF THIS PART SELL, EXCHANGE, OR LEASE LANDS APPRAISED PURSUANT TO SUBSECTION (1) FOR LESS THAN THE APPRAISED VALUE."

Section 15. Section 7-8-2515, MCA, is amended to read:

"7-8-2515. Apportionment and distribution of revenues from land. ~~All~~ (1) Except as provided in subsection (2), all proceeds from ~~any~~ use or disposition of lands pursuant to the terms of this part ~~shall be~~ apportioned and distributed according to the provisions of 7-8-2306 must be deposited in the county's general fund.

(2) Revenue realized by a county from the sale, exchange, or disposal of lands dedicated to public use

1 for park or playground purposes must be paid into the park fund and used in the manner prescribed in 76-3-621
2 for cash received in lieu of dedication."

3
4 **Section 16.** Section 76-6-109, MCA, is amended to read:

5 **"76-6-109. Powers of public bodies -- county real property acquisition procedure maintained. (1)**

6 A public body has the power to carry out the purposes and provisions of this chapter, including the following
7 powers in addition to others granted by this chapter:

8 (a) to borrow funds and make expenditures necessary to carry out the purposes of this chapter;

9 (b) to advance or accept advances of public funds;

10 (c) to apply for and accept and use grants and any other assistance from the federal government and
11 any other public or private sources, to give security as may be required, to enter into and carry out contracts or
12 agreements in connection with the assistance, and to include in any contract for assistance from the federal
13 government conditions imposed pursuant to federal laws as the public body may consider reasonable and
14 appropriate and that are not inconsistent with the purposes of this chapter;

15 (d) to make and execute contracts and other instruments necessary or convenient to the exercise of its
16 powers under this chapter;

17 (e) in connection with the real property acquired or designated for the purposes of this chapter, to provide
18 or to arrange or contract for the provision, construction, maintenance, operation, or repair by any person or
19 agency, public or private, of services, privileges, works, streets, roads, public utilities, or other facilities or
20 structures that may be necessary to the provision, preservation, maintenance, and management of the property
21 as open-space land;

22 (f) to insure or provide for the insurance of any real or personal property or operations of the public body
23 against any risks or hazards, including the power to pay premiums on the insurance;

24 (g) to demolish or dispose of any structures or facilities that may be detrimental to or inconsistent with
25 the use of real property as open-space land; and

26 (h) to exercise any of its functions and powers under this chapter jointly or cooperatively with public
27 bodies of one or more states, if they are authorized by state law, and with one or more public bodies of this state
28 and to enter into agreements for joint or cooperative action.

29 (2) For the purposes of this chapter, the state, a city, town, or other municipality, or a county may:

30 (a) appropriate funds;

(b) subject to 15-10-420, levy taxes and assessments according to existing codes and statutes;

(c) issue and sell its general obligation bonds in the manner and within the limitations prescribed by the applicable laws of the state, subject to subsection (3); and

(d) exercise its powers under this chapter through a board or commission or through the office or officers that its governing body by resolution determines or as the governor determines in the case of the state.

(3) Property taxes levied to pay the principal and interest on general obligation bonds issued by a city, town, other municipality, or county pursuant to this chapter may not be levied against the following property:

(a) agricultural land eligible for valuation, assessment, and taxation as agricultural land under 15-7-202;

(b) forest land as defined in 15-44-102;

(c) all agricultural improvements on agricultural land referred to in subsection (3)(a);

(d) all noncommercial improvements on forest land referred to in subsection (3)(b); and

(e) agricultural implements and equipment described in 15-6-138(1)(a).

(4) This chapter does not supersede the provisions of ~~7-8-2202~~ Title 7, chapter 8, parts 22 and 25."

NEW SECTION. Section 17. Repealer. The following sections of the Montana Code Annotated are repealed:

7-8-2202. Appraisal required for certain purchases of real property or conservation easements.

7-8-2210. Authorization to dedicate park land.

7-8-2219. Exchange or donation of county land -- failure to make sale.

7-8-2233. Special provisions relating to coal leases.

7-8-2308. Sale or donation of land valued at less than \$50 and land not acquired by tax deed.

7-8-2502. Application of part.

7-8-2504. Classification of county land.

7-8-2505. Rules for administration of county lands.

7-8-2506. Advisory committee.

7-8-2507. Land management alternatives.

7-8-2508. Details relating to leases, permits, and licenses.

7-8-2509. Improvements on leaseholds.

7-8-2511. Procedure for sale of county lands.

7-8-2512. Procedure to exchange county lands.

1
2 NEW SECTION. **Section 18. Codification instruction.** [Sections 9 through 12] are intended to be
3 codified as an integral part of Title 7, chapter 8, part 25, and the provisions of Title 7, chapter 8, part 25, apply
4 to [sections 9 through 12].

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