

CHAPTER 210

NATURAL RESOURCES

HOUSE BILL 95-1286

BY REPRESENTATIVES Taylor, Entz, George, Jerke, May, Moellenberg, Pankey, Salaz, Schwarz, Acquafresca, and Prinzler;
also SENATOR Johnson.

AN ACT

CONCERNING WILDLIFE MANAGEMENT.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 33-1-105.5, Colorado Revised Statutes, 1984 Repl. Vol., is RECREATED AND REENACTED, WITH AMENDMENTS, to read:

33-1-105.5. Acquisition of property - procedure - repeal. (1) EXCEPT AS PROVIDED IN SUBSECTION (7) OF THIS SECTION, BEFORE THE COMMISSION PURCHASES ANY FEE TITLE INTEREST IN REAL PROPERTY OR ANY INTEREST IN WATER PURSUANT TO SECTION 33-1-105 (1) (a), IT SHALL SOLICIT BID PROPOSALS FROM ALL INTERESTED PARTIES THROUGH THE ISSUANCE OF A REQUEST FOR PROPOSALS. NOTICE OF SUCH REQUEST FOR PROPOSALS SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE AREA WHERE THE COMMISSION PLANS TO PURCHASE THE REAL PROPERTY OR INTEREST IN WATER.

(2) THE NOTICES REQUIRED TO BE PUBLISHED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING INFORMATION:

(a) THE APPROXIMATE AMOUNT OF MONEY AVAILABLE TO THE COMMISSION FOR THE TYPE OF PROPERTY, INTEREST IN WATER, AND HABITAT TO BE ACQUIRED;

(b) THE NATURE OF THE WILDLIFE HABITAT, OTHER PROPERTY, OR INTEREST IN WATER DESIRED, INCLUDING THE TYPE OR TYPES OF RECREATIONAL OPPORTUNITIES, IF ANY;

(c) THE EXPECTED TERMS AND CONDITIONS OF THE PROPOSED ACQUISITIONS;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(d) THE NAME, ADDRESS, AND PHONE NUMBER OF A CONTACT PERSON EMPLOYED BY THE DIVISION WHO SHALL BE RESPONSIBLE FOR PROVIDING FURTHER INFORMATION RELATING TO THE BID PROCESS TO ANY INTERESTED PARTY;

(e) THE DEADLINES FOR THE SUBMISSION OF PROPOSALS AND THE ADDRESS WHERE PROPOSALS ARE TO BE SENT; AND

(f) ANY OTHER INFORMATION DEEMED RELEVANT BY THE COMMISSION.

(3) ALL PROPOSALS RECEIVED BY THE COMMISSION SHALL BE OPENED IN A MANNER WHICH IS DESIGNED TO PREVENT THE DISCLOSURE OF THE OFFERING PRICE INFORMATION CONTAINED IN SUCH PROPOSALS TO COMPETING BIDDERS. ONCE A SUCCESSFUL BIDDER HAS BEEN SELECTED AND THE ACQUISITION IS COMPLETED, THE ACQUISITION PRICE AND ANY OTHER INFORMATION DEEMED RELEVANT BY THE COMMISSION SHALL BE MADE AVAILABLE TO THE PUBLIC.

(4) THE COMMISSION, OR ITS DESIGNEE, MAY CONDUCT DISCUSSIONS WITH ANY PERSON WHO SUBMITS A PROPOSAL PURSUANT TO THIS SECTION FOR THE PURPOSE OF CLARIFYING WHETHER THE BIDDER IS RESPONSIVE TO, OR HAS A FULL UNDERSTANDING OF, THE SOLICITATION REQUIREMENTS. THE COMMISSION, OR ITS DESIGNEE, SHALL, AT THE REQUEST OF ANY PERSON MAKING A PROPOSAL, UNLESS IT DEEMS SUCH PROPOSAL NONRESPONSIVE TO THE BID SOLICITATION, ASSIST SUCH PERSON IN RESTRUCTURING THE PROPOSAL FOR THE PURPOSE OF MAKING THE MOST ATTRACTIVE POSSIBLE PROPOSAL. BIDDERS SHALL BE ACCORDED FAIR AND EQUAL TREATMENT WITH RESPECT TO ANY OPPORTUNITY FOR DISCUSSION AND REVISION OF PROPOSALS. THE COMMISSION, OR ITS DESIGNEE, SHALL NOT DISCLOSE ANY INFORMATION REGARDING THE OFFERING PRICES OF OTHER PROPOSALS DURING THE COURSE OF SUCH DISCUSSIONS. BIDDERS MAY SUBMIT REVISIONS TO PROPOSALS AFTER THE INITIAL SUBMISSION OF THE PROPOSAL, SO LONG AS SUCH REVISIONS ARE MADE PRIOR TO THE DATE LISTED IN THE REQUEST FOR PROPOSALS FOR FINAL SUBMISSION OF ALL PROPOSALS. THE COMMISSION HAS THE RIGHT TO REJECT ANY AND ALL BIDS.

(5) THE COMMISSION SHALL EVALUATE THE PROPOSALS BASED ON THE FOLLOWING CRITERIA:

(a) WHETHER THE ABILITY OF THE COMMISSION TO ATTAIN THE GOALS ESTABLISHED IN THE LONG-RANGE PLAN OF THE DIVISION IS ENHANCED BY THE ACQUISITION OF THE PROPERTY OR INTEREST IN WATER;

(b) WHETHER THE ACQUISITION RESULTS IN THE ESTABLISHMENT OF ADDITIONAL WILDLIFE HABITAT OR IN THE POTENTIAL FOR ADDITIONAL HABITAT THROUGH THE USE OF HABITAT IMPROVEMENT METHODS;

(c) WHETHER THE ACQUISITION WILL IMPROVE ACCESS TO OTHER PUBLIC LANDS;

(d) WHETHER ADDITIONAL WILDLIFE-ORIENTED RECREATIONAL OPPORTUNITIES WILL RESULT FROM THE ACQUISITION;

(e) THE SIZE AND LOCATION OF THE PROPERTY OR INTEREST IN WATER, INCLUDING

THE PROXIMITY OF THE PROPERTY OR INTEREST IN WATER TO OTHER PROPERTY CONTROLLED BY THE DIVISION; AND

(f) SUCH OTHER CRITERIA AS THE COMMISSION MAY ESTABLISH.

(6) PRIOR TO ACCEPTANCE OF PROPOSALS BY THE COMMISSION, SAID PROPOSALS MUST BE REVIEWED BY BOARDS OF COMMISSIONERS OF COUNTIES WITH LANDS OR WATER INCLUDED IN THE PROPOSALS.

(7) THE COMMISSION MAY DECIDE NOT TO USE THE BID PROCESS ESTABLISHED IN THIS SECTION WHEN THE PROPERTY OR INTEREST IN WATER BEING PURCHASED IS LOCATED IN SUCH PROXIMITY TO OTHER PROPERTY CONTROLLED BY THE DIVISION THAT, IN THE JUDGMENT OF THE COMMISSION, THE BID PROCESS WOULD NOT BE EFFECTIVE, OR WHEN THE PROPERTY OR INTEREST IN WATER TO BE PURCHASED IS OFFERED THROUGH FORECLOSURE, RECEIVERSHIP, OR AUCTION, OR WHEN THE PROPERTY OR INTEREST IN WATER IS TO BE PURCHASED FROM ANOTHER GOVERNMENTAL ENTITY. IN THE EVENT THAT THE BID PROCESS IS NOT USED, THE PURCHASE OF ANY FEE TITLE INTEREST IN REAL PROPERTY OR ANY INTEREST IN WATER SHALL BE APPROVED BY THE GENERAL ASSEMBLY ACTING BY BILL.

(8) THE COMMISSION MAY ADOPT SUCH RULES AS ARE NECESSARY TO IMPLEMENT THE ACQUISITION PROCESS ESTABLISHED IN THIS SECTION.

(9) THE COMMISSION SHALL INCLUDE IN ITS ANNUAL REPORT, WHICH REPORT SHALL BE SUBMITTED TO THE CAPITAL DEVELOPMENT COMMITTEE AND TO THE AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE AGRICULTURE, NATURAL RESOURCES, AND ENERGY COMMITTEE OF THE SENATE, A LISTING OF ALL ACQUISITIONS OF REAL PROPERTY OR INTERESTS IN WATER MADE PURSUANT TO THE PROVISIONS OF THIS SECTION. SUCH REPORT SHALL DESCRIBE ALL PROPERTY AND INTERESTS IN WATER ACQUIRED SINCE JULY 1, 1992, THE ACQUISITION COST OF EACH SUCH PROPERTY OR INTEREST IN WATER, AND THE APPRAISED VALUE OF EACH SUCH PROPERTY OR INTEREST IN WATER, AND SHALL CONTAIN A DESCRIPTION OF ALL PENDING ACQUISITIONS OF PROPERTY AND INTERESTS IN WATER.

(10) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2000.

SECTION 2. 33-1-105 (1) (a) and (3), Colorado Revised Statutes, 1984 Repl. Vol., as amended, are amended to read:

33-1-105. Powers of commission. (1) The commission has power to:

(a) (I) Acquire by gift, transfer, devise, lease, purchase, or long-term operating agreement such land and water, or interest in land and water, as in the judgment of the commission may be necessary, suitable, or proper for wildlife purposes or for the preservation or conservation of wildlife. The term "interest in land and water", as used in this section, means any and all rights and interests in land, including but not limited to fee title interests, future interests, easements, covenants, and contractual rights. Every such interest in land and water held by the commission when properly recorded shall run with the land or water to which it pertains for the benefit of the citizens of this state and may be protected and enforced by the commission in the

district court of the county in which the land or water, or any portion thereof, is located. Game cash funds shall not be expended for water development projects except in those projects specifically authorized by the commission. Whenever the commission purchases any fee title interest in land or water as authorized by this section, it shall follow the procedures established in section 33-1-105.5.

(II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JULY 1, 2000.

(3) (a) In the event that the commission plans to acquire the fee title to any real property or to acquire an easement for a period to exceed twenty-five years or at a cost to exceed one hundred thousand dollars or to enter into any lease agreement for the use of real property for a period to exceed twenty-five years or at a cost to exceed one hundred thousand dollars, or to sell or otherwise dispose of the fee title to any real property which has a market value in excess of one hundred thousand dollars, the commission shall first submit a report to the capital development committee which outlines the anticipated use of the real property, the maintenance costs related to the property, the current value of the property, any conditions or limitations which may restrict the use of the property, and, in the event real property is acquired, the potential liability to the state which will result from such acquisition. The capital development committee shall review the reports submitted by the commission and make recommendations to the commission concerning the proposed land transaction within thirty days from the day on which the report is received. The commission shall not complete such transaction without considering the recommendations of the capital development committee, if such recommendations are timely made.

(b) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JULY 1, 2000.

SECTION 3. Article 1 of title 33, Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

33-1-122. Wildlife legislative interim committee - repeal. (1) IN ADDITION TO ANY OTHER INTERIM COMMITTEES, THERE IS ESTABLISHED THE WILDLIFE LEGISLATIVE INTERIM COMMITTEE THAT IS CREATED TO REVIEW THE OPERATIONS OF THE DIVISION, DIRECTOR, AND COMMISSION AND TO MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY CONCERNING CHANGES TO SUCH OPERATIONS. THE GENERAL ASSEMBLY RECOGNIZES THAT SIGNIFICANT STATEWIDE ISSUES AND CONCERNS EXIST AND HAVE BEEN EXPRESSED BY MEMBERS OF THE PUBLIC WITH VARIOUS INTERESTS REGARDING THE ROLES, RESPONSIBILITIES, AND CHAIN OF AUTHORITY OF THE DIVISION, DIRECTOR, AND COMMISSION. THE ISSUES ADDRESSED BY THE COMMITTEE SHALL INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

(a) THE DUTIES OF THE DIVISION, DIRECTOR, AND COMMISSION;

(b) THE BUDGET PROCESS OF THE DIVISION AND DIRECTOR;

(c) THE ACQUISITION OF PROPERTY;

(d) ENDANGERED OR THREATENED SPECIES OR SUBSPECIES;

(e) AUTHORITIES AND RESPONSIBILITIES RELATING TO THE DIVISION, DIRECTOR, AND COMMISSION;

(f) THE RECOMMENDATIONS INCLUDED IN THE MOST RECENT PERFORMANCE REVIEW AUDIT OF THE DIVISION BY THE STATE AUDITOR;

(g) THE STATUS AND RECOMMENDATIONS OF THE DIVISION'S CURRENT MANAGEMENT REVIEW, AS AVAILABLE;

(h) GAME DAMAGE;

(i) IMPACT OF THE STATE PERSONNEL SYSTEM ON THE MANAGEMENT OF THE DIVISION.

(2) THE COMMITTEE SHALL BE COMPOSED OF THE FOLLOWING FOURTEEN MEMBERS:

(a) SEVEN MEMBERS OF THE SENATE COMMITTEE OF REFERENCE THAT DEALS WITH AGRICULTURE AND NATURAL RESOURCES;

(b) SEVEN MEMBERS OF THE HOUSE OF REPRESENTATIVES WHO ARE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, NO MORE THAN FIVE OF WHOM ARE FROM THE SAME POLITICAL PARTY.

(3) THE COMMITTEE SHALL MAKE FINDINGS AND RECOMMENDATIONS REGARDING THE ISSUES REVIEWED UNDER THIS SECTION, INCLUDING BUT NOT LIMITED TO, ANY NECESSARY LEGISLATION AND SHALL SUBMIT A WRITTEN REPORT ON THE COMMITTEE'S FINDINGS AND RECOMMENDATIONS TO THE GENERAL ASSEMBLY ON OR BEFORE NOVEMBER 15, 1995. LEGISLATION RECOMMENDED BY THE COMMITTEE SHALL BE TREATED AS LEGISLATION RECOMMENDED BY ANY OTHER LEGISLATIVE INTERIM COMMITTEE FOR PURPOSES OF ANY INTRODUCTION DEADLINES OR BILL LIMITATIONS IMPOSED BY THE JOINT RULES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES.

(4) THE COMMITTEE SHALL MEET AT LEAST THREE TIMES TO FULFILL ITS RESPONSIBILITIES UNDER THIS SECTION, INCLUDING MEETINGS AS NECESSARY WITH REPRESENTATIVES OF THE DIVISION, DIRECTOR, AND COMMISSION AND TO PROVIDE OPPORTUNITIES FOR THE PRESENTATION OF TESTIMONY BY ANY INTERESTED INDIVIDUALS.

(5) MEMBERS OF THE COMMITTEE SHALL BE REIMBURSED FOR NECESSARY EXPENSES IN CONNECTION WITH THE PERFORMANCE OF THEIR DUTIES AND SHALL BE PAID THE SAME PER DIEM AS OTHER MEMBERS OF LEGISLATIVE INTERIM COMMITTEES IN ATTENDANCE AT MEETINGS.

(6) THE LEGISLATIVE COUNCIL STAFF SHALL BE MADE AVAILABLE TO ASSIST THE COMMITTEE IN CARRYING OUT ITS DUTIES UNDER THIS SECTION. ALL PERSONNEL OF THE DIVISION, DIRECTOR, COMMISSION, AND DEPARTMENT SHALL COOPERATE WITH THE COMMITTEE AND WITH ANY PERSONS ASSISTING THE COMMITTEE IN CARRYING OUT ITS DUTIES UNDER THIS SECTION.

(7) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 31, 1996.

SECTION 4. 35-50-114.5 (1) (a), Colorado Revised Statutes, 1984 Repl. Vol.,

as amended by House Bill 95-1129, enacted at the First Regular Session of the Sixtieth General Assembly, is amended to read:

35-50-114.5. Cervidae disease revolving fund - creation. (1) (a) The commission may levy an assessment of ~~no more than five dollars per head of cervidae per year~~ from the owners of alternative livestock cervidae or captive wildlife cervidae which shall be transmitted to the state treasurer who shall credit the same to the cervidae disease revolving fund, which fund is hereby created. THIS ASSESSMENT SHALL BE DETERMINED BY THE COMMISSION, UPON THE RECOMMENDATION OF THE CAPTIVE WILDLIFE AND ALTERNATIVE LIVESTOCK BOARD, AND SHALL BE IN AN AMOUNT, NOT TO EXCEED EIGHT DOLLARS PER HEAD OF CERVIDAE PER YEAR, REFLECTING THE DIRECT AND INDIRECT EXPENSES OF CARRYING OUT THE PURPOSES OF THIS SECTION. The fund shall be maintained at a level of no more than two hundred thousand dollars and shall be administered by the commission pursuant to the recommendations of the captive wildlife and alternative livestock board created in section 33-1-121, C.R.S. ADMINISTRATION OF THE FUND SHALL INCLUDE SETTING A MINIMUM RESERVE LEVEL FOR THE FUND. An assessment shall not be levied or collected on cervidae owned by a zoological park that is accredited by the American zoo and aquarium association. A zoological park that does not pay into the fund is not eligible for indemnification under this section.

SECTION 5. 35-50-114.5 (3) (b), Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended, and the said 35-50-114.5 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

35-50-114.5. Cervidae disease revolving fund - creation. (3) (b) Combined state and federal indemnity shall not exceed eighty percent of ~~actual appraised~~ MARKET value, AS DETERMINED BY THE ALTERNATIVE LIVESTOCK AND CAPTIVE WILDLIFE BOARD.

(c) THE AMOUNT OF INDEMNIFICATION PAYMENTS TO OWNERS OF CERVIDAE DESTROYED UNDER ORDER OF THE STATE VETERINARIAN FOR THE CONTROL OF CONTAGIOUS AND INFECTIOUS DISEASE SHALL BE DETERMINED BY THE CAPTIVE WILDLIFE AND ALTERNATIVE LIVESTOCK BOARD, SUBJECT TO APPROVAL BY THE COMMISSION.

SECTION 6. Appropriation - loans authorized. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the cervidae disease revolving fund created in section 35-50-114.5, Colorado Revised Statutes, not otherwise appropriated, to the department of agriculture, agricultural services division, the sum of one hundred twenty thousand dollars (\$120,000), or so much thereof as may be necessary, for the implementation of this act. This appropriation shall become available upon passage of this act and shall remain available until July 1, 1996.

(2) For the purpose of implementing this act prior to sufficient moneys becoming available in the cervidae disease revolving fund, the department of agriculture is authorized to borrow moneys from the wildlife cash fund and the controlled maintenance trust fund, upon passage of this act. The department of agriculture may borrow an amount not to exceed half of the amount of the appropriation in subsection (1) of this section from each of said funds. Moneys borrowed from the two funds

shall be transferred and credited to the cervidae disease revolving fund. As moneys become available to the cervidae disease revolving fund, the moneys borrowed from the two funds shall be repaid from the cervidae disease revolving fund, with interest, in five equal annual payments to each fund. Each loan shall bear interest at the earnings rate calculated monthly by the state treasurer.

SECTION 7. Severability of statutory provisions. If any provision of section 4, 5, or 6 of this act is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of this act are valid, unless it appears to the court that the valid provisions of this act are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed the general assembly would have enacted the valid provisions without the void one; or unless the court determines that the valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

SECTION 8. Applicability. Section 1 of this act shall apply to all real property transactions to which section 1 of this act is applicable that are commenced by the wildlife commission on and after the effective date of this act.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 25, 1995