



Montana Legislative Services Division
Legislative Environmental Policy Office

To: WPIC and EQC members
From: Joe Kolman and Todd Everts
Re: Water Policy Jurisdiction
Date: Aug. 26, 2008

Legislators,

The next meeting of the EQC/WPIC subcommittee is Monday Sept. 8 at 11 a.m. in Room 102. This coincides with the EQC meeting. Please let us know if you plan to attend by phone.

Enclosed is an agenda and three bill drafts that cover the options the subcommittee has discussed so far. LC5017 and LC5018 are essentially the same from the last meeting. However, as the subcommittee directed, LC5017 now clarifies that Legislative Council would settle jurisdictional disputes. (Reference to 5-5-204(4))

LC5016 is a new bill draft. The subcommittee discussed a water policy committee that would not have any administrative oversight. (This is similar to the current WPIC).

The bill drafts are attached. Included below are the duties, but also some other issues related to the options..

LC5016 Creating a separate water policy committee -- no administrative duties

Duties: This would create a separate water policy committee, but unlike other interim committees this committee would not review rules, exercise oversight of any agency, or review agency bill drafts. These duties would stay with the EQC, similar to the relationship this interim.

In addition to assigned studies, the WPIC could examine any issue related to water policy.

Issues: The following duties also would remain with EQC:

- * Review the state water plan.
- * Review the Renewable Resource Grant and Loan Program of DNRC.
- * Analyze water-related research.
- * Analyze the water information system maintained by NRIS.
- * Review water adjudication reports.
- * Receive reports from the Clark Fork River Basin Task Force.
- * Receive reports on water leasing from the FWP.

Staff: Same as LC5017.

Funding: Same as LC5017.

LC5017 - Creating a separate water policy committee

Duties: This would transfer statutorily delegated water issues from the EQC to the WPIC. This includes rule review, draft legislation review, program evaluation, and monitoring of the executive branch for the DNRC, the DEQ, and the FWP. Other duties transferred to the WPIC would include:

- * Review the state water plan.
- * Review the Renewable Resource Grant and Loan Program of DNRC.
- * Analyze water-related research.
- * Analyze the water information system maintained by NRIS.
- * Review water adjudication reports.
- * Receive reports from the Clark Fork River Basin Task Force.
- * Receive reports on water leasing from the FWP.

The WPIC also would undertake any studies related to water passed by the Legislature.

Issues:

* Instead of appearing before one committee (EQC) for agency oversight, the DNRC, the FWP and the DEQ would be subject to review by two committees. The committees would be responsible for deciding what is a water issue and what is not. For example, this interim the opencut mining program has been discussed by both the EQC and the WPIC.

* Non-legislative members may serve on subcommittee, but including non-legislative members on the WPIC would require additional legislation.

Staff: Either a separate committee or an EQC subcommittee would have one research analyst. However, a separate committee would require its own attorney and secretary. (A subcommittee of the EQC would use Mr. Everts, who serves as the EQC legal counsel. A subcommittee may not always need a secretary).

Funding: A separate committee would require additional funding. The current WPIC is on track to spend about \$65,000. It will have held 10 meetings, including hearings in Dillon, Bozeman, Thompson Falls, Choteau and Hamilton.

LC5018 - Creating a statutory subcommittee of the EQC

Duties: The duties outlined above would be assigned to a subcommittee of the EQC, which would be comprised of at least some EQC members and would report to the EQC at each meeting.

Issues:

* Membership of the subcommittee could vary in size and representation. Members may be all members of the EQC, or may include members of other interim committees or legislators not assigned to another committee. Public members also may be allowed.

* Statute requires that when EQC members are appointed, consideration be given to their ability to analyze and interpret environmental trends and information of all kinds, appraise programs and activities of the state government in the light of the policy set forth in the Montana

Environmental Policy Act, be conscious of and responsive to the scientific, economic, social, aesthetic, and cultural needs and interests of the state, and formulate and recommend state policies to promote the improvement of the quality of the environment.

* EQC members are limited to six years - three interims - on the council.

Staff: Possibly a secretary.

Funding:

* A subcommittee meeting in conjunction with EQC and using only EQC members would likely require no additional funding.

* A subcommittee that included non EQC members and traveled would require additional funding, although Helena meetings would likely be held in conjunction with EQC meetings. For example, the Split Estate subcommittee of the 2005-06 EQC met nine times, including meetings in Havre, Sidney, and Sheridan, Wyo. That subcommittee had a \$50,000 budget and included six EQC members and six public members.