

Fiscal Note Request HB0568, As Introduced

(continued)

FISCAL IMPACT:

Department of Justice

	<u>FY 2006</u> <u>Difference</u>	<u>FY 2007</u> <u>Difference</u>
FTE	1.00	1.00
<u>Expenditures:</u>		
Personal Services	56,979	56,979
Operating Expenses	<u>8,674</u>	<u>5,698</u>
TOTAL	\$65,653	\$62,677
<u>Funding of Expenditures:</u>		
General Fund (01)	\$65,653	\$62,677
<u>Revenues:</u>		
General Fund (01)	\$0	\$0
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>		
General Fund (01)	(\$65,653)	(\$62,677)

TECHNICAL NOTES:

1. This bill provides the Attorney General with standing to file an objection in Water Court in the state wide water adjudication where:
 - a. The Water right claim is for a flow rate for power generation; and
 - b. The flow rate is greater than 280 cubic feet per second.
2. No other water right claims in the adjudication would be subject to this new statutory standing.
3. The issue of whether to address the factual and legal issues identified by the Montana Supreme Court's Claims Examination undertaken by the DNRC is currently in drafting before EQC. LC 0818 proposes to address not only power generation flows, but also broader adjudication matters. A draft of a structured process is proposed to address issues related to accuracy or enforceability, particularly with regard to abandonment or non-perfection of water rights includes:
 - i. Notice,
 - ii. Opportunity to resolve with the claim examiner,
 - iii. Opportunity to resolve through objection,
 - iv. Opportunity to resolve through the court's own motion, and
 - v. Finally through an intervention by the Attorney General in the event that issue remarks remain on claims that have been examined under the court rules.
4. It appears that the purposes addressed by HB 568 are included within LC 0818. HB 586 does not by itself, however, address the questions with regard to accuracy of water right claims except as to the narrow class of power generation rights in excess of 280 cfs.
5. Even so, if implemented, HB 568 will require sufficient staff to review the power generation flows, the existing right claims, and the water use permits granted to determine whether to file and pursue objections to them in the adjudication litigation relative to approximately 200 power generation water rights.