



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2009 Biennium

<b>Bill #</b>	HB0151	<b>Title:</b>	Repeal water adjudication fee and provide rebate
<b>Primary Sponsor:</b>	Heinert, R.	<b>Status:</b>	As Introduced

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input checked="" type="checkbox"/> Needs to be included in HB 2  | <input checked="" type="checkbox"/> Technical Concerns   |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

### FISCAL SUMMARY

	<u>FY 2008</u> <u>Difference</u>	<u>FY 2009</u> <u>Difference</u>	<u>FY 2010</u> <u>Difference</u>	<u>FY 2011</u> <u>Difference</u>
<b>Expenditures:</b>				
General Fund	\$25,511,024	\$107,450	\$0	\$0
State Special Revenue	(\$140,367)	\$0	(\$140,367)	\$0
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$16,097,615	(\$225,421)	(\$5,233,208)	\$890,793
<b>Net Impact-General Fund Balance</b>	(\$25,511,024)	(\$107,450)	\$0	\$0

#### Description of fiscal Impact:

This bill repeals the water adjudication fee imposed by 85-2-276, MCA. It establishes a refundable credit against individual income tax or corporation license tax for water adjudication fees previously paid and directs the Department of Revenue to refund fees paid by local governments. These provisions would be effective on passage and approval. This bill also directs that \$25 million be transferred from the general fund to the water adjudication fund to cover the future costs of the water adjudication process.

### FISCAL ANALYSIS

#### Assumptions:

- Under current law, water rights owners are required to pay a fee to fund the water rights adjudication process. The fee is to be paid by January 31 of each even numbered year through 2014. Upon passage and approval, this bill would repeal section 85-2-276, MCA, which sets these fees and directs the Department of Revenue to collect them.

**Department of Natural Resources and Conservation (DNRC)**

2. It is assumed that DNRC will achieve the established benchmarks and the base budget for adjudication continues to be funded in the Water Resources Division.
3. Fees due in each billing cycle are \$6,200,000. If this bill passes, revenue to the water adjudication fund would be reduced by this amount in FY 2008 and FY 2010.
4. Section 9 of this bill would transfer \$25 million from the general fund to the water adjudication fund on July 1, 2007. This would provide funding for the water adjudication process through FY 2020. Expenditures for the water adjudication process would be the same as under current law.
5. If this bill passes, the DOR would not be reimbursed for its costs of \$140,367 from the water adjudication account in FY 2008 and FY 2010.
6. Interest earned by the water adjudication fund is retained in the fund rather than deposited in the general fund. Interest earnings on general fund and special revenue fund balances will be 4.598% of average balances in FY 2008 and 4.557% in FY 2009 through FY 2010 (HJR2).
7. The \$25 million transferred to the water adjudication fund at the beginning of FY 2008 and additional interest will be spent at a rate of \$2,600,000 through 2015 and \$1,000,000 through 2020. In FY 2008, the average balances in the water adjudication fund will be \$24,326,623 higher and interest earnings will be \$1,118,538 higher. Average balances will be \$22,809,143 higher in FY 2009, \$21,215,544 higher in FY 2010, and \$19,547,790 higher in FY 2011. Increased interest earnings will be \$1,039,413 in FY 2009, \$966,792 in FY 2010, and \$890,793 in FY 2011.

**Department of Revenue (DOR)**

8. Sections 1 and 2 of this bill would allow individuals, corporations, or pass-through business entities to take a refundable credit against individual income tax or corporation license tax equal to water adjudication fees paid before passage and approval of this bill. Section 9 directs the Department of Revenue to refund fees paid by local governments.
9. The first round of water adjudication fees was due by January 2006. Payments of \$5,085,757 were received from 108,484 water rights owners. Of these entities, 121 were local government units, and they paid \$26,420 in fees.
10. Credits of \$5,059,337 (\$5,085,757 - \$26,420) will be claimed on individual income tax and corporation license tax returns filed beginning in January 2008. Three-fourth of the credits are assumed to be claimed on returns filed before the end of FY 2008, and one-fourth are assumed to be claimed on returns filed in FY 2009. General fund revenue will be reduced by \$3,794,503 ( $3/4 \times \$5,059,337$ ) in FY 2008 and by \$1,264,834 ( $1/4 \times \$5,059,337$ ) in FY 2009. (See Technical Notes 1 and 2.)
11. Local governments will be reimbursed \$26,420 directly from the water adjudication fund in FY 2008. (See Technical Notes 1 and 2.)
12. Under current law 85-2-276(3), MCA, the Department of Revenue is entitled to recover its costs of collecting water adjudication fees from the fees collected. The department's costs and reimbursement for collecting the fees due in 2006 were \$140,367. If this bill passes, the department's costs and expenditures from the water adjudication account will be reduced by this amount in FY 2008 and FY 2010.
13. To administer the tax credit, the Department of Revenue would need to develop forms, modify its processing system, issue an additional 109,000 refund checks and 1099s, and audit credit applications to ensure that credits are granted only to parties who actually paid water adjudication fees. All additional costs are assumed to be paid from the general fund.
14. The department would need 4.00 additional FTE in FY 2008 and 1.50 additional FTE in FY 2009. Total personal services costs would be \$173,998 in FY 2008 and \$63,309 in FY 2009. The cost for computers and other equipment for the additional employees would be \$17,700 in FY 2008.
15. Operating costs for forms development, processing system changes, printing and mailing forms and refund checks, and auditing would be \$319,326 in FY 2008 and \$44,141 in FY 2009.

	<u>FY 2008</u> <u>Difference</u>	<u>FY 2009</u> <u>Difference</u>	<u>FY 2010</u> <u>Difference</u>	<u>FY 2011</u> <u>Difference</u>
<b>Fiscal Impact:</b>				
<b>DNRC</b>				
<b>Revenues:</b>				
State Special Revenue (02)	\$16,237,982	(\$225,421)	(\$5,092,841)	\$890,793
<b>DOR</b>				
<b>FTE</b>	4.00	1.50	0.00	0.00
<b>Expenditures:</b>				
Personal Services	\$173,998	\$63,309	\$0	\$0
Operating Expenses	\$196,659	\$44,141	(\$140,367)	\$0
Transfers	\$25,000,000	\$0	\$0	\$0
<b>TOTAL Expenditures</b>	<u>\$25,370,657</u>	<u>\$107,450</u>	<u>(\$140,367)</u>	<u>\$0</u>
<b>Funding of Expenditures:</b>				
General Fund (01)	\$25,511,024	\$107,450	\$0	\$0
State Special Revenue (02)	<u>(\$140,367)</u>	<u>\$0</u>	<u>(\$140,367)</u>	<u>\$0</u>
<b>TOTAL Funding of Exp.</b>	<u>\$25,370,657</u>	<u>\$107,450</u>	<u>(\$140,367)</u>	<u>\$0</u>
<b>Revenues:</b>				
General Fund (01)	(\$25,000,000)	\$0	\$0	\$0
State Special Revenue (02)	<u>(\$140,367)</u>	<u>\$0</u>	<u>(\$140,367)</u>	<u>\$0</u>
<b>TOTAL Revenues</b>	<u>(\$25,140,367)</u>	<u>\$0</u>	<u>(\$140,367)</u>	<u>\$0</u>
<b>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</b>				
General Fund (01)	(\$25,511,024)	(\$107,450)	\$0	\$0
State Special Revenue (02)	\$16,378,349	(\$225,421)	(\$4,952,474)	\$890,793

**Effect on County or Other Local Revenues or Expenditures:**

- Local governments will receive payments of \$26,420 as reimbursement for water adjudication fees paid before the effective date of this bill.

**Long-Range Impacts:**

- Water adjudication fees of \$6,200,000 would not be collected in FY 2012 and 2014.
- Collection costs of \$140,367 would not be incurred in FY 2012 and 2014.
- The water adjudication fund would earn additional interest of \$811,257 in FY 2012 declining to \$549,744 in FY 2015.
- Interest to the general fund would continue to be \$1.1 million lower in future years.

**Technical Notes:**

- Sections 1 and 3 requires the Department of Revenue to reimburse the taxpayer and local governments for water adjudication fees they paid before the effective date of this bill. The bill does not specify which fund these reimbursements are to be made from. This fiscal note assumes that reimbursements are to be

paid from the water adjudication fund. Appropriations either to the DOR or DNRC would be necessary to process the necessary refunds.

2. Section 9 directs that \$25 million be transferred from the general fund to the water adjudication fund but does not specify who is to make the transfer. This fiscal note assumes DOR will make the transfer.

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*Sponsor's Initials*

*Date*

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*Budget Director's Initials*

*Date*