

**ENVIRONMENTAL QUALITY COUNCIL MEETING  
SEPTEMBER 9, 2008****EQC/WATER POLICY JOINT SUBCOMMITTEE REPORT****Report on Subcommittee Activities**

- 02:18:54 Mr. Everts provided a history on water policy development in Montana.
- 02:24:46 Sen. Story explained the Joint Subcommittee is concerned about how the duties would be divided between the EQC and the WPIC. Sen. Story explained the Joint Subcommittee approved a proposal to make the WPIC a permanent interim committee. The Joint Subcommittee also considered another proposal that would make the WPIC an EQC standing subcommittee. Sen. Story directed the EQC members to LC 5016 (EXHIBIT 4) and LC 5018 (EXHIBIT 5).
- 02:30:06 Rep. Lambert added both LC 5016 and LC 5018 would require the WPIC to coordinate its efforts with the EQC.
- 02:30:55 Sen. Jim Elliott, SD 7, is the Chairman of the WPIC. Sen. Elliott did not regard the issue as a turf battle. Sen. Elliott stated the WPIC held 160 hours of hearings. Sen. Elliott believed having an in-depth knowledge of the water policy issues would be important in the future. Sen. Elliott identified the amount of time devoted to water and the opportunity for the DEQ and the DNRC to understand how to better serve the public as valid reasons to maintain a separate and permanent WPIC. Sen. Elliott stated Rep. McNutt also supported maintaining a separate WPIC. Sen. Elliott stated oversight of the agencies should remain with the EQC, and he believed a member of the EQC should sit on the WPIC. Chairman Elliott identified two considerations as the importance of water to Montana, and whether a subcommittee of the EQC could deal with the issue in depth.
- 02:36:14 Chairman Wanzenried provided a report and stated he voted against the bill draft. Chairman Wanzenried clarified the importance of water was not being questioned, but how to best develop and guide water policy. Chairman Wanzenried identified the question as whether it makes sense to address the issue in increments. Chairman Wanzenried believed LC 5018 would be the better place to begin. Chairman Wanzenried recognized sensitivities between the EQC members and the WPIC members.

**Questions from the EQC**

- 02:39:16 Ms. Conradi asked if the WPIC were to become a separate interim committee, whether public members would be permitted. Mr. Everts responded no. Ms. Conradi addressed Sen. Elliott and asked whether he thought it would be beneficial to have members of the public on the committee. Sen. Elliott replied he did not care one way or another whether members of the public sat on the

WPIC and that he was proud of the way the WPIC operated in a non-partisan manner and the amount of public comment that was heard. Ms. Conradi clarified she was not advocating for public membership, but was simply curious whether it would have been helpful to include non-legislative members. Sen. Elliott apologized for his assumptions.

02:43:03 Rep. Dickenson asked why one proposal would be preferable to the other in terms of carryover of knowledge. Sen. Elliott explained the WPIC expended a substantial amount of time studying water and that there were no other issues before the WPIC. Sen. Elliott believed a committee that addresses one subject can delve into the subject in greater depth. Sen. Elliott suggested there were more members on the WPIC than there might be on an EQC subcommittee. Chairman Wanzenried stated each proposal requires eight legislators, and agreed that one topic would allow more time. Chairman Wanzenried identified an interplay between the issue of water development policy and all other water-related issues. Chairman Wanzenried believed Montana could be faced with greater challenges if Montana continues to have abnormally low rainfall, increasing population, and increasing demands for water. Chairman Wanzenried stated he was less comfortable making the transition all at one time. Chairman Wanzenried saw a need to carefully examine how to make a division of duties. Chairman Wanzenried identified another issue as whether a subcommittee would have enough members, and suggested the size of the EQC could be expanded and could also provide an opportunity to include public members.

02:47:54 Rep. Witte questioned the 3-3 vote, when the WPIC has eight members. Chairman Wanzenried clarified the vote was taken at the Joint Subcommittee meeting, which has six members. Rep. Witte was troubled with the EQC term limits and the fact that a member can only serve three two-year terms on the EQC. Rep. Witte thought the term limits could be changed to allow four terms. Rep. Witte questioned the cost of the meetings and asked about the budget for the WPIC. Rep. Witte thought it might be more beneficial to have an EQC subcommittee. Mr. Everts clarified \$65,000 was appropriated for the WPIC.

02:51:56 Sen. Elliott explained the legislation provided \$50,000 to the WPIC and an additional \$15,000 was requested from Legislative Council because of the requirements of HB 831. Chairman Elliott stated Rep. McNutt supported eliminating term limits for the EQC members. Rep. McNutt also believed adding additional time would put a strain on the membership of the EQC and could result in three-day meetings.

02:53:55 Rep. Witte asked Sen. Elliott about saving taxpayer money on meetings. Sen. Elliott stated taxpayer money could be saved now or later, and that the WPIC provides a benefit to the public by its decision making. Sen. Elliott believed it would be difficult to do a cost-benefit analysis of interim committees. Rep. Witte was absolutely convinced having the EQC subcommittee address Montana water issues would save money. Chairman Wanzenried recalled the split estates EQC subcommittee traveled.

- 02:56:46 Rep. Vincent suggested LC 5016 would provide for a typical interim committee meeting with a two-day structure. Rep. Vincent asked whether LC 5018 would add another day onto the regular meetings of the EQC. Chairman Wanzenried stated it would depend on the work plan.
- 02:57:49 Mr. Everts stated EQC has historically had between one and four subcommittees during an interim and, regardless of whether it is a subcommittee or interim committee, the Legislature would allocate funding as it sees fit.
- 02:59:00 Rep. Vincent commented that water policy is here to stay and that he has reviewed a substantial amount of information. Rep. Vincent did not believe LC 5018 would provide an adequate amount of time to address the issue.
- 03:00:42 Rep. Lambert pointed out the a Subcommittee could also meet via teleconference.
- 03:01:43 Mr. Cebull served on the HB 790 Subcommittee and recalled the subcommittee traveled and heard substantial public comment and was a very effective model. Mr. Cebull requested comments from Rep. Lambert and Sen. Story on which proposal they would prefer.
- 03:03:29 Sen. Story viewed interim work as preparation for the Legislature. Sen. Story believed the more legislators involved in the interim process the better. However, Sen. Story was concerned about the division of workload. Sen. Story recalled both the DNRC staff and the DEQ staff appreciated the opportunity to discuss issues with the WPIC. Sen. Story wondered why those discussions did not happen before the EQC. Sen. Story believed the whole Legislature would need to decide the issue. Sen. Story commented most of the information he learned about tax he learned on separate, single-issue interim committees.
- 03:08:36 Rep. Lambert stated her first choice was LC 5018 and adamantly believed results were more important than the costs. Rep. Lambert believed both bills should move forward.
- 03:09:47 Sen. Shockley stated the DEQ addresses environmental quality and administratively, it would make more sense to create a subcommittee of the EQC.
- 03:11:08 Rep. Bixby also leaned toward creating a subcommittee of the EQC and explained the process followed by the HB 790 subcommittee. Rep. Bixby believed the EQC was omitted from the water policy picture.
- 03:13:28 Sen. Elliott believed both bill drafts could move forward, but stated he would support creating a separate WPIC. Sen. Elliott asked how having a separate WPIC worked for the current EQC and asked the EQC members to consider what would have happened if they had to address water policy issues. Sen. Elliott asked that an EQC Subcommittee have autonomy in choosing topics relating to water.

03:16:18 Rep. Vincent asked about the turnover on the WPIC and asked whether the turnover was testament to the workload and the issues. Chairman Elliott agreed.

### **Public Comment**

There was no public comment offered.

### **Action by the EQC**

- 03:17:34 Sen. Shockley suggested sending both proposals forward.
- 03:18:17 Rep. Witte moved that LC 5018 be moved forward. Rep. Witte moved to amend LC 5018 on page 2, subsection (b), and that language similar to the language regarding the Agency Oversight Subcommittee be included and that the subcommittee be comprised of six members, including public members. Chairman Wanzenried clarified there is no statutory language regarding the Agency Oversight Subcommittee. Chairman Wanzenried suggested leaving the subsection (b) out entirely and leave the decision to the EQC based on the workload. Mr. Everts agreed the terms of the makeup of the subcommittee could be left to the discretion of the EQC. Chairman Wanzenried agreed there was a need for flexibility.
- 03:21:24 Sen. Story clarified the split estate subcommittee was defined in statute and required legislators from EQC and non-legislative members. Sen. Story suggested LC 5018 was not necessary and a statute was not required to have an EQC subcommittee.
- 03:23:18 Sen. Shockley observed more bodies would be needed if another EQC subcommittee was created.
- 03:24:15 Rep. Dickenson suggested including language that would expand the membership on the EQC and address term limits for EQC membership.
- 03:25:36 Mr. Cebull recalled the requirements of HB 790 were addressed without increasing the size of the EQC.
- 03:26:11 Ms. Conradi saw a difference with the WPIC and the need for it to be ongoing and noted the split estates subcommittee was only for one interim. Mr. Cebull suggested the HB 790 subcommittee could be used as a model. Mr. Cebull asked if both proposals would have the same staffing requirements. Mr. Everts agreed.
- 03:28:38 Chairman Wanzenried introduced students from the PEAK program in the Helena School District.
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## EQC/WATER POLICY JOINT SUBCOMMITTEE REPORT (Cont'd.)

- 07:15:26 Mr. Kolman submitted and explained LC 7000, LC 7001, and LC 7002 (EXHIBIT 13), (EXHIBIT 14), (EXHIBIT 15).
- 07:19:06 Rep. Vincent requested a breakdown of the six members at large chosen by the EQC for the HB 790 subcommittee. Mr. Kolman explained a public call for participants was put out. The six EQC subcommittee members made recommendations for the at-large members, and the EQC appointed two additional legislators as non-voting members.
- 07:22:00 Sen. Story questioned whether LC 7001 should require 21 members. Sen. Story was concerned about the administration of a committee that large.
- 07:23:49 Rep. Lambert asked for Rep. Dickenson's rationale for increasing the EQC membership. Rep. Dickenson explained membership should be increased to share the workload. Rep. Dickenson agreed with Sen. Story that 21 members could be unmanageable.
- 07:24:59 Sen. Shockley also concerned about increasing the membership of the EQC, and stated he would like the subcommittee to have members of the public with expertise. Sen. Shockley suggested some of the people on the subcommittee would not be part of the EQC.
- 07:26:05 Ms. Conradi recalled Sen. Story had suggested the EQC should be larger. Sen. Story suggested expanding a committee too much could result in conflicts.
- 07:27:48 Mr. Everts stated the proposal contains two concepts, which do not have to be linked. Mr. Everts stated EQC membership would not have to be increased, and the subcommittee could contain members that are not part of the whole EQC.
- 07:28:37 Mr. Kolman stated LC 7002 removed public members from the subcommittee.
- 07:29:22 Rep. Witte suggested amending LC 7001 to increase subcommittee membership from six to seven, which would put the EQC's membership at 19.
- 07:29:57 Rep. Witte moved to amend LC 7001 and increase EQC membership from six to seven Senators and six to seven Representatives.
- 07:30:33 Sen. Kaufmann cited difficulties in the appointment process because of the resulting imbalance in parties. Sen. Kaufmann made a substitute motion to keep EQC membership the same, eliminate term limits, and committee membership as outlined on page 3.
- 07:31:58 Rep. Witte moved LC 7001 with an amendment to retain six members of the Senate and six members of the House. The motion carried unanimously by voice vote.

- < 07:33:02 Sen. Story moved to advance LC 5016.
- 07:33:48 Mr. Everts clarified the EQC would be adopting LC 5016 as an EQC bill for pre-introduction purposes.
- 07:34:25 Sen. Shockley commented he did not see a need for two competing bills.
- 07:35:00 Mr. Everts suggested the title would need to be broadened.
- 07:35:48 Sen. Kaufmann thought there were good arguments for both ways to address the issue and that it might be good to provide two potential solutions.
- < 07:37:31 Sen. Story's motion to advance LC 5016 carried by roll call vote.