AN ACT CLARIFYING NOTICE PROCEDURES FOR EXEMPT WATER RIGHT CLAIMS FILED IN BASINS WITH TEMPORARY PRELIMINARY DECREES IN EFFECT; AMENDING SECTION 85-2-231, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 85-2-231, MCA, is amended to read:

"85-2-231. Temporary preliminary decree, preliminary decree, and supplemental preliminary decree. (1) A water judge may issue a temporary preliminary decree prior to the issuance of a preliminary decree if the temporary preliminary decree is necessary for the orderly adjudication or administration of water rights.

(2) (a) The water judge shall issue a preliminary decree. The preliminary decree must be based on:

(i) the statements of claim before the water judge, including ~~those~~ all claims filed pursuant to 85-2-222 for a preliminary decree issued after June 30, 2019;

(ii) the data submitted by the department;

(iii) the contents of compacts approved by the Montana legislature and the tribe or federal agency or, lacking an approved compact, the filings for federal and Indian reserved rights; and

(iv) any additional data obtained by the water judge.

(b) The preliminary decree must be issued within 90 days after the close of the special filing period set out in 85-2-702(3) or as soon after the close of that period as is reasonably feasible.

(c) In a basin in which a water judge has issued a preliminary decree prior to July 1, 2019, the water judge shall issue a supplemental preliminary decree, containing only those claims for exempt rights, as defined in 85-2-222, ~~filed between the date of issuance of the preliminary decree and the filing deadline provided for in 85-2-222~~ that were not included in a preliminary decree and for which notice has not been provided under 85-2-233(6).

(d) The water judge may issue an interlocutory decree if an interlocutory decree is otherwise necessary for the orderly administration of water rights.

(3) A temporary preliminary decree may be issued for any hydrologically interrelated portion of a water division, including but not limited to a basin, subbasin, drainage, subdrainage, stream, or single source of supply of water, or any claim or group of claims at a time different from the issuance of other temporary preliminary decrees.

(4) The temporary preliminary decree, preliminary decree, or supplemental preliminary decree must contain the information and make the determinations, findings, and conclusions required for the final decree under 85-2-234.

(5) If the water judge is satisfied that the report of the water master meets the requirements for the preliminary decree and is satisfied with the conclusions contained in the report, the water judge shall adopt the report as the preliminary decree. If the water judge is not satisfied, the water judge may recommit the report to the master with instructions or modify the report and issue the preliminary decree.

(6) The department shall examine claims in basins that were verified rather than examined as ordered by the water court. The objection and hearing provisions of Title 85, chapter 2, part 2, apply to these claims. (Subsection (6) terminates June 30, 2028--sec. 10, Ch. 269, L. 2015.)"

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to all claims for exempt rights, as defined in 85-2-222, filed on or before June 30, 2019.

- END -

I hereby certify that the within bill,

SB 0151, originated in the Senate.

_____

President of the Senate

Signed this _____ day

of _____ , 2019.

_____

Secretary of the Senate

_____

Speaker of the House

Signed this _____ day

of _____ , 2019.

SENATE BILL NO. 151

INTRODUCED BY S. FITZPATRICK

AN ACT CLARIFYING NOTICE PROCEDURES FOR EXEMPT WATER RIGHT CLAIMS FILED IN BASINS WITH TEMPORARY PRELIMINARY DECREES IN EFFECT; AMENDING SECTION 85-2-231, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.