



AN ACT GENERALLY REVISING RIVER BASIN ADVISORY COUNCIL LAWS FOR DEVELOPING AND IMPLEMENTING THE STATE WATER PLAN; CLARIFYING THAT A STATE WATER PLAN MUST BE DEVELOPED BY 2035; EXTENDING THE USE OF RIVER BASIN ADVISORY COUNCILS IN THE MISSOURI, YELLOWSTONE, CLARK FORK, AND KOOTENAI RIVER BASINS TO DEVELOP THE STATE WATER PLAN; CLARIFYING THE MEMBERSHIP OF RIVER BASIN ADVISORY COUNCILS; ADDING REQUIREMENTS FOR THE STATE WATER PLAN; AMENDING SECTION 85-1-203, MCA; AND REPEALING SECTION 85-2-350, MCA.

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

**Section 1.** Section 85-1-203, MCA, is amended to read:

**"85-1-203. State water plan.** (1) The department shall gather from any source reliable information relating to Montana's water resources and prepare from ~~the~~that information a continuing comprehensive inventory of the water resources of the state. In preparing this inventory, the department may:

- (a) conduct studies;
  - (b) adopt studies made by other competent water resource groups, including federal, regional, state, or private agencies;
  - (c) perform research or employ other competent agencies to perform research on a contract basis;
- and
- (d) hold public hearings in affected areas at which all interested parties must be given an opportunity to appear.

(2) The department shall formulate and adopt and amend, extend, or add to a comprehensive, coordinated multiple-use water resources plan known as the "state water plan". The state water plan may be formulated and adopted in sections, with some of these sections corresponding with hydrologic divisions of the

state. The state water plan must set out a progressive program for the conservation, development, utilization, and sustainability of the state's water resources and must propose the most effective means by which these water resources may be applied for the benefit of the people, with due consideration of alternative uses and combinations of uses.

(3) Sections of the state water plan must be completed for the ~~Missouri, Yellowstone, and Clark Fork River basins~~ Missouri River basin, the Yellowstone River basin, and the Clark Fork and Kootenai River basins, be submitted to the ~~2015-2035~~ legislature, and be updated at least every 20 years. These basinwide plans must include:

(a) an inventory of consumptive and nonconsumptive uses associated with existing water rights;

(b) identified data gaps;

~~(b)(c)~~ (c) an estimate of the amount of surface and ground water needed to satisfy new future demands;

~~(e)(d)~~ (d) analysis of the effects of frequent drought and of new or increased depletions on the availability of future water supplies;

~~(d)(e)~~ (e) proposals for the best means to satisfy existing water rights and new water demands, such as an evaluation of opportunities for storage of water by both private and public entities, ~~to satisfy existing water rights and new water demands~~;

~~(e)(f)~~ (f) possible sources of water to meet the needs of the state; and

~~(f)(g)~~ (g) any legislation necessary to address water resource concerns in these basins.

(4) (a) The department shall create a ~~water user council in both the Yellowstone and Missouri River basins~~ basin advisory council in the Missouri River basin, in the Yellowstone River basin, and in the Clark Fork and Kootenai River basins that is inclusive and representative of all water interests and interests in those basins. ~~For the Clark Fork River basin, the department shall continue to utilize the Clark Fork River basin task force established pursuant to 85-2-350.~~

(b) ~~The councils in the Missouri and Yellowstone River basins consist of representatives of existing watershed groups or councils within the basins~~ basin advisory councils must consist of key water interests within the basins, including, on recommendation from relevant water user interest groups, at least one representative each from the following groups or organizations:

(i) agricultural;

(ii) conservation;

(iii) industrial;

(iv) irrigation;

(v) municipal;

(vi) recreational;

(vii) tribal;

(viii) watershed; and

(ix) conservation districts.

(c) Each basin advisory council may have up to 20 members.

(d) Each ~~water user~~ basin advisory council shall make recommendations to the department on the basinwide plans required by subsection (3).

(e) The department may use existing basin councils as a basin advisory council if the composition and purpose of the existing basin council is consistent with this subsection (4).

(5) Before adopting the entire state water plan or any section of the plan, the department shall hold public hearings ~~in~~ across the state, or in an area of the state encompassed by a section of the plan if adoption of a section is proposed. Notice of the hearing or hearings must be published for 2 consecutive weeks in a newspaper of general ~~county~~ circulation published in each county encompassed by the proposed plan or section of the plan at least 30 days prior to the hearing.

(6) The department shall submit to the water policy committee established in 5-5-231 and to the legislature at the beginning of each regular session the state water plan or any section of the plan or amendments, additions, or revisions to the plan that the department has formulated and adopted.

(7) The legislature, by joint resolution, may revise the state water plan.

(8) The department shall prepare a continuing inventory of the ground water resources of the state. The ground water inventory must be included in the comprehensive water resources inventory described in subsection (1) but must be a separate component of the inventory.

(9) The department shall publish the comprehensive inventory, the state water plan, the ground water inventory, or any part of each, and the department may assess and collect a reasonable charge for these publications.

(10) In developing and revising the state water plan as provided in this section, the department shall consult with the water policy committee established in 5-5-231 and solicit the advice of the water policy committee in carrying out its duties under this section."

**Section 2. Repealer.** The following section of the Montana Code Annotated is repealed:

85-2-350. Clark Fork River basin task force -- duties -- water management plan.

**Section 3. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

- END -

I hereby certify that the within bill,  
SB 20, originated in the Senate.

---

Secretary of the Senate

---

President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2021.

---

Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2021.

SENATE BILL NO. 20

INTRODUCED BY J. COHENOUR

BY REQUEST OF THE WATER POLICY INTERIM COMMITTEE

AN ACT GENERALLY REVISING RIVER BASIN ADVISORY COUNCIL LAWS FOR DEVELOPING AND IMPLEMENTING THE STATE WATER PLAN; CLARIFYING THAT A STATE WATER PLAN MUST BE DEVELOPED BY 2035; EXTENDING THE USE OF RIVER BASIN ADVISORY COUNCILS IN THE MISSOURI, YELLOWSTONE, CLARK FORK, AND KOOTENAI RIVER BASINS TO DEVELOP THE STATE WATER PLAN; CLARIFYING THE MEMBERSHIP OF RIVER BASIN ADVISORY COUNCILS; ADDING REQUIREMENTS FOR THE STATE WATER PLAN; AMENDING SECTION 85-1-203, MCA; AND REPEALING SECTION 85-2-350, MCA.