

PENDING LAWSUITS

The State of Montana is involved in a number of substantial cases, some of which are summarized below. In addition to the fiscal risks inherent in some of these cases, e.g., *Wrzesien v. State/MPERA* and *PPL v. Montana*, when the State is the losing party in major litigation, it may be required to pay the costs and attorney fees of the prevailing party. The costs and expenses in these cases are often very substantial.

Montana v. Wyoming: In 2004 Montana sued Wyoming for violation of the Yellowstone River Compact, involving primarily the Tongue River system. The Supreme Court of the United States has original jurisdiction over the case and has appointed a special master.

PPL v. Montana: Following remand by the Supreme Court of the United States, this litigation concerns navigability of portions of the Missouri, Clark Fork, and Madison rivers. Millions of dollars in rents from dam operators are at stake.

Wrzesien v. State/MPERA: Plaintiffs are seeking class certification of an equal protection challenge to “plan choice rate” for defined contribution and ORP (optional retirement program) retirement plans, which directs a percentage of the employer’s contribution to the defined benefit plan to pay down the pension’s actuarial liability. They seek an elimination of the plan choice rate going forward and a repayment, with interest, of past plan choice rate payments.

Montana Cannabis v. State: Plaintiffs are challenging restrictions placed upon the production and sale of medical marijuana enacted during the 2011 legislative session. If the plaintiffs are successful, the number of medical marijuana users would continue to increase, as would the costs of policing the medical marijuana industry.

Donaldson v. State: Plaintiffs challenge various statutes denying equal benefits to same-sex couples. The State prevailed in the Montana Supreme Court but remanded to allow the plaintiffs to amend their complaint.

American Tradition Partnership v. Murry and Bullock: Plaintiffs are appealing to the Ninth Circuit the federal district court’s ruling that Section 13-35-216, MCA, establishes unconstitutional contribution limits in Montana elections. The case is pending in the Ninth Circuit Court of Appeals.

Big Sky Colony v. Montana Dep’t of Labor: Plaintiffs allege that workers compensation statutes discriminate against the Hutterites. The State prevailed in the Montana Supreme Court but the plaintiffs filed a petition for certiorari to the Supreme Court of the United States, which has ordered the State to file a Brief in Opposition.

HB 2 BOILER PLATE – VACANCY SAVINGS

The 2013 Legislature paid particular attention to personal services budgeting. As a part of this heightened interest, the HB 2 boiler plate language was modified to include the following language:

Section 3. Legislative intent. It is the intent of the legislature that the appropriations for personal services contained in this bill for fiscal year 2014 and fiscal year 2015, except for the reductions contained in decision packages that remove an additional vacancy savings amount, are supported by only the number of FTE that are funded. It is the intent of the legislature that this net level of FTE is the level that will be used to calculate personal services funding in the next biennium.

This language will be implemented in the 2015 biennium and used to modify how personal services are budgeted in future years. Implementing this language fits within the charge of the Legislative Finance Committee to make recommendations to the House Appropriations Committee and the Senate Finance and Claims Committee on the application of budget issues. “At a minimum, the recommendations must include procedures for the consistent application during each session of inflation factors, the allocation of fixed costs, and the personal services budget.” 5-12-205(7), MCA.