

HOUSE JOINT RESOLUTION NO. 14

INTRODUCED BY B. HAMLETT, B. BROWN, Z. BROWN, J. COHENOUR, C. GLIMM, W. SALES,  
J. WELBORN

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF THE FUTURE OF THE MONTANA WATER COURT; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 67TH LEGISLATURE.

WHEREAS, the Montana Supreme Court finally recognized the prior appropriation doctrine in 1921, providing a system for water distribution and an important private property right; and

WHEREAS, the 1973 Montana Water Use Act created an adjudication process to centralize a system of water right administration and to determine many undefined water rights; and

WHEREAS, the 1979 Legislature created the Montana Water Court to conduct the litigation phase of adjudication and to issue final decrees, which determine the priority dates and flow rates for all water claimed before 1973; and

WHEREAS, the Montana Water Court will have a diminished role after decrees are issued for all of the state's 85 hydrologic basins, which is estimated to be 2028; and

WHEREAS, the Montana Water Court, its judges, and its water masters retain a broad depth of historical and contemporary knowledge of water rights in Montana, and it may be wise to retain such expertise for future decades of water right administration in Montana.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to review the future role of the Montana Water Court and, if possible, make recommendations for the Water Court.

BE IT FURTHER RESOLVED, that the study consider:

(1) reports and analyses related to the Water Court, and the adjudication, permitting, and change of water right processes;

(2) input from the Water Court, state agencies, water users, and others involved in the change process;



1 (3) similar courts in other arid western states; and

2 (4) other relevant information.

3 BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be  
4 presented to and reviewed by an appropriate committee designated by the Legislative Council.

5 BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review  
6 requirements, be concluded prior to September 15, 2020.

7 BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions,  
8 comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

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