



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill # SB0384

Title: Revise laws related to Aquatic Invasive Species hydroelectric fee

Primary Sponsor: Esp, John

Status: As Introduced

- Significant Local Gov Impact
 Needs to be included in HB 2
 Technical Concerns
 Included in the Executive Budget
 Significant Long-Term Impacts
 Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue (AIS)	(\$213,131)	(\$213,131)	(\$1,716,427)	(\$1,716,427)
State Special Rev (Marijuana)	\$1,000,000	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue (AIS)	(\$140,063)	(\$1,140,063)	(\$2,799,541)	(\$2,799,541)
State Special Rev (Marijuana)	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact: SB 384 revises the quarterly invasive species fee for hydroelectric facilities from a tiered fee structure to a flat fee equal to \$397.88 per megawatt of a facility's nameplate capacity. This change is effective for FY 2022 and FY 2023. Beginning FY 2024, the invasive species fee for hydroelectric facilities is repealed. The bill provides for a \$1 million transfer to the invasive species account. State special revenue will decline by \$1,021,000 in FY 2022 and FY 2023 and by \$2,581,000 in FY 2024 and FY 2025.

FISCAL ANALYSIS

Assumptions:

Department of Fish, Wildlife, and Parks

1. This bill eliminates the current tiered invasive species fee structure for hydroelectric facilities and imposes a flat rate of \$397.88 per megawatt of a facility's nameplate capacity. This change is effective for FY 2022 and FY 2023. The fee is repealed entirely beginning in FY 2024.
2. Hydroelectric facilities with a nameplate capacity of less than 1.5 megawatts are still excluded from paying the fee.

3. As of June 2020, there were 19 hydropower facilities in operation, 1 of which had a nameplate capacity of less than 1.5 megawatts.
4. The total nameplate capacity of the 18 hydropower facilities that are assessed the invasive species fee is 2,641.1 megawatts.
5. The department does not know if the number of hydroelectric facilities will increase or their capacity will increase; therefore, the department assumes total nameplate capacity will remain constant through FY 2023.
6. Current annual revenue from the invasive species fee is \$2,799,541 annually.
7. The altering of the fee structure in the bill will reduce invasive species fee revenue to \$1,659,478 in FY 2022 and FY 2023 and to \$0 in FY 2024 and beyond.
8. On or after July 1, 2021, this bill provides for a one-time \$1 million transfer from funds allocated to the wildlife habitat fund from the marijuana compensation special revenue account (16-12-111(3), MCA) to the invasive species fund.
9. Revenue estimates provided by the Office of Budget and Program Planning (OBPP) indicate there will be sufficient revenue available from the marijuana compensation special revenue account to cover the \$1 million transfer. If revenue from the wildlife habitat fund transfer is insufficient to cover the \$1 million transfer, the remaining balance would first come from funds allocated to the state from the American Rescue Plan Act, followed by the state general fund if there are not enough federal funds available.
10. Table 2 shows the revenue estimates for the wildlife habitat fund according to 16-12-111(3), MCA.
11. The net revenue loss to the invasive species fund is (\$140,063) (-\$1,140,063 decline in fee revenue + \$1,000,000 transfer from wildlife habitat fund) for FY 2022 and (\$1,140,063) for FY 2023.
12. Beginning FY 2024, the net revenue loss is (\$2,799,541) annually.
13. The revenue from this hydroelectric invasive species fee is used to fund the Aquatic Invasive Species (AIS) program.
14. For FY 2022 and 2023, the reduction in revenue for the AIS program is minimal. Beginning in FY 2024 there is a 23% annual reduction from current funding levels.
15. The department has received federal funding for this program, but this funding has been declining and is not guaranteed. Since 2018, the federal funding has declined by 32%. Because of this, the revenue model for this program relies primarily on the state special revenue from hydroelectric invasive species fees.
16. The annual reduction in FWP expenditures will be \$1,157,820 beginning in FY 2024. This is 26% of total FWP program expenses.
17. The hydroelectric invasive species fee revenue also funds the AIS program in the Department of Natural Resources & Conservation (DNRC). In FY 2020, DNRC expended \$609,749 of the hydroelectric invasive species fee revenue.
18. In absence of hydroelectric invasive species fee revenue, the remaining funding for the AIS program comes from hunting and fishing license revenue which is ineligible to be used by the Department of Natural Resources and Conservation (DNRC).

Department of Natural Resources and Conservation

19. The revised revenue from the invasive species fee reduces the fee in FY 2022 and FY 2023 and fully eliminates the fee by FY 2024.
20. The only other revenue to the invasive species account is 1.4% of lodging facility use tax and the aquatic invasive species prevention pass for non-resident vessels.
21. The Department of Natural Resources and Conservation's (DNRC's) budget for invasive species is approximately 17.3% of the total appropriation in the invasive species account (with the Department of Fish, Wildlife and Parks (FWP) being the balance).
22. The reduction of revenue from the invasive species fee in FY 2022 and FY 2023 and elimination of that same fee in FY 2024 and FY 2025 reduces the DNRC's ability to:

- a. implement its statutory duties to the administratively attached Montana Invasive Species Council (80-7-1201, MCA)-and the Upper Columbia Conservation Commission (80-7-1026, MCA), and fund the staff supporting those attachments; and
 - b. fund aquatic invasive species grants per 80-7-1017, MCA; and
 - c. fund personal services and operations within the DNRC Director’s Office, thus reducing the program’s ability to serve the other divisions in the DNRC.
23. The Toston Hydropower facility (Toston Dam) is a 10-Megawatt hydroelectric facility owned by the State of Montana and operated by the DNRC. In FY 2022 and FY 2023, the bill removes the current quarterly rate of \$274.95 per megawatt for facilities with nameplate capacity of at least 1.5 megawatts but less than 25 megawatts and replaces it with a quarterly flat rate for all megawatts of \$397.88 per megawatt. This flat rate will increase the fee that the DNRC pays to the Montana Department of Revenue (DOR) by \$4,917 per year. In FY 2024 and FY 2025, the bill eliminates the fee paid by the Toston Dam completely. The amounts are reflected in the revenue reduction estimates.

	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
<u>Fiscal Impact:</u>				
FTE	0.00	0.00	0.00	0.00
<u>Expenditures:</u>				
Personal Services	(\$57,545)	(\$57,545)	(\$153,524)	(\$153,524)
Operating Expenses	(\$68,202)	(\$68,202)	(\$1,329,774)	(\$1,329,774)
Grants	(\$87,384)	(\$87,384)	(\$233,129)	(\$233,129)
Transfers	\$1,000,000	\$0	\$0	\$0
TOTAL Expenditures	<u>\$786,869</u>	<u>(\$213,131)</u>	<u>(\$1,716,427)</u>	<u>(\$1,716,427)</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (AIS)	(\$213,131)	(\$213,131)	(\$1,716,427)	(\$1,716,427)
State Special Rev (marijuana)	\$1,000,000	\$0	\$0	\$0
TOTAL Funding of Exp.	<u>\$786,869</u>	<u>(\$213,131)</u>	<u>(\$1,716,427)</u>	<u>(\$1,716,427)</u>
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	(\$140,063)	(\$1,140,063)	(\$2,799,541)	(\$2,799,541)
State Special Rev (marijuana)	\$0	\$0	\$0	\$0
TOTAL Revenues	<u>(\$140,063)</u>	<u>(\$1,140,063)</u>	<u>(\$2,799,541)</u>	<u>(\$2,799,541)</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$73,068	(\$926,932)	(\$1,083,114)	(\$1,083,114)
State Special Rev (marijuana)	(\$1,000,000)	\$0	\$0	\$0

Technical Notes:

1. Section 5 of SB 384 provides for a transfer of \$1,000,000 of funds that would otherwise go to FWP from the I-190 recreational marijuana initiative. The section goes on to indicate that if there is not sufficient revenue generated from marijuana taxes to fund the \$1,000,000 transfer, that the fund transfer will come from funds

appropriated in HB 632 from the American Rescue Plan Act (ARPA) that would be eligible for this purpose. Since there is not a nexus to COVID 19, it is not anticipated that there would be ARPA funding available. The final portion of Section 5 indicates that if there is not sufficient revenue available from the previous two sources to fund the \$1,000,000 transfer, the balance would come from the state general fund. As indicated in assumption #9, it is anticipated that there will be sufficient marijuana tax revenue available to fund the transfer.

Department of Fish, Wildlife, and Parks

- 2. Currently, there is an amendment to HB 2 (HB000209-C.arm) which would transfer \$1 million annually into the hydroelectric invasive species state special revenue appropriation for AIS from DNRC to FWP. With the passage of this bill, the department would not be able to expend this additional appropriation because there would be insufficient revenue.

Department of Natural Resources and Conservation

- 3. There are other aquatic invasive species fees assessed by the State of Montana when a fishing license is purchased. These fees are deposited into the general license account at FWP. The DNRC cannot be appropriated funding from the general license account, and so cannot access those aquatic invasive species funds.
- 4. With this bill, the administratively attached Montana Invasive Species Council (80-7-1201, MCA), the Upper Columbia Conservation Commission (80-7-1026, MCA), the aquatic invasive species grants (80-7-1017, MCA), and the staff supporting those attachments would be almost completely defunded.

NO SPONSOR SIGNATURE

	3.23	KA	3-22-21
<i>Sponsor's Initials</i>	<i>Date</i>	<i>Budget Director's Initials</i>	<i>Date</i>