

1 SENATE BILL NO. 83
 2 INTRODUCED BY M. CUFFE
 3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE WESTERN MONTANA CONSERVATION
 6 COMMISSION ACT; ELIMINATING THE FLATHEAD BASIN COMMISSION AND THE UPPER COLUMBIA
 7 CONSERVATION COMMISSION; ELIMINATING LAWS RELATED TO THE FLATHEAD BASIN COMMISSION
 8 ACT; PROVIDING REQUIREMENTS FOR VOTING MEMBERS AND NONVOTING REPRESENTATIVES;
 9 ESTABLISHING REPORTING REQUIREMENTS; REPEALING SECTIONS 2-15-3310, 2-15-3330, 2-15-3331,
 10 2-15-3332, 75-7-301, 75-7-302, 75-7-303, 75-7-304, 75-7-305, 75-7-307, 75-7-308, AND 80-7-1026, MCA;
 11 AND PROVIDING AN EFFECTIVE DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 NEW SECTION. Section 1. Western Montana conservation commission. (1) There is a western
16 Montana conservation commission consisting of 16 voting members. The commission is attached to the
17 department of natural resources and conservation for administrative purposes only, as prescribed in 2-15-121.

18 (2) The governor shall appoint nine of the voting members who represent each of the following
19 groups within western Montana:

- 20 (a) the hydropower utility industry;
- 21 (b) an electric cooperative;
- 22 (c) a private landowner who is a member of an irrigation district;
- 23 (d) a private citizen at large;
- 24 (e) private industry; and
- 25 (f) a director, officer, staff person, or member of a natural resource, conservation, or recreation

26 organization, representing each of the following geographic areas:

- 27 (i) the Clark Fork river basin upstream from Missoula, including the Blackfoot river basin;
- 28 (ii) the Clark Fork river basin downstream from Missoula, including the Bitterroot river basin;

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- 1 (iii) the Kootenai river basin; and
- 2 (iv) the Flathead river basin.
- 3 (3) Seven of the voting members shall represent the following groups within western Montana,
- 4 including:
- 5 (a) two county commissioners, nominated and appointed by the Montana association of counties,
- 6 including:
- 7 (i) one from a county with a population greater than 100,000; and
- 8 (ii) one from a county with a population less than 100,000;
- 9 (b) two conservation district representatives, nominated and appointed by the Montana association
- 10 of conservation districts;
- 11 (c) two representatives of wastewater or storm water utilities, including:
- 12 (i) one from a municipality with a population greater than 20,000, nominated and appointed by the
- 13 Montana league of cities and towns; and
- 14 (ii) one from a local water and sewer district, nominated and appointed by the Montana rural water
- 15 association; and
- 16 (d) a representative of the Confederated Salish and Kootenai tribes' natural resource department,
- 17 nominated and appointed by the Confederated Salish and Kootenai tribes tribal council;
- 18 (4) (a) The following officials or entities may appoint nonvoting representatives as follows:
- 19 (i) The speaker of the house and the president of the senate may each appoint two nonvoting
- 20 representatives, one each from the majority party and from the minority party.
- 21 (ii) The directors of the department of environmental quality, department of natural resources and
- 22 conservation, department of fish, wildlife, and parks, department of transportation, and department of
- 23 commerce may each designate a nonvoting representative to the commission.
- 24 (iii) The president of the university of Montana, the director of the Montana bureau of mines and
- 25 geology, and the Confederated Salish and Kootenai tribes tribal council may each designate a nonvoting
- 26 representative to the commission.
- 27 (iv) The regional administrators of the environmental protection agency, U.S. department of
- 28 agriculture, U.S. forest service, U.S. department of the interior, U.S. bureau of reclamation, U.S. geological

1 survey, U.S. department of defense, and U.S. army corps of engineers and the administrator of the Bonneville
2 power administration may each designate a nonvoting representative to the commission.

3 (b) The nonvoting representatives appointed subject to subsections (4)(a)(ii) through (4)(a)(iv)
4 must possess sufficient knowledge and authority with their position to inform natural resource and community
5 development decisions made within the commission's purpose and duties.

6 (5) The commissioners shall serve without pay. The voting members of the commission are
7 entitled to reimbursement of travel, meals, and lodging expenses while engaged in commission business, as
8 provided in 2-18-501 through 2-18-503.

9 (6) Nonvoting commission representatives shall serve at the pleasure of the agency or
10 organization that appoints them and may be removed with or without cause. Voting commission members shall
11 serve staggered 4-year terms beginning July 1, 2023. To implement staggered terms for voting members, the
12 governor may specify a shorter length of term for initial voting members except that:

13 (a) the Flathead basin commission shall nominate two commissioners to the governor to serve
14 until July 1, 2025, subject to subsections (2)(a) through (2)(f); and

15 (b) the upper Columbia conservation commission shall nominate two commissioners to the
16 governor to serve until July 1, 2025, subject to subsections (2)(a) through (2)(f).

17 (7) A majority of the voting members of the commission constitutes a quorum of the commission.

18 (8) A vacancy on the commission must be filled in the same manner as a regular appointment. The
19 appointed member shall serve for the remainder of the unexpired term.

20 (9) The commission shall select a presiding officer from among its members. The presiding officer
21 may make motions and vote.

22 (10) A favorable vote of at least a majority of a quorum of voting members of the commission is
23 required to adopt any commission motion, resolution, or other decision.

24
25 NEW SECTION. Section 2. Short title. [Sections 2 through 8] may be cited as the "Western Montana
26 Conservation Commission Act."

27
28 NEW SECTION. Section 3. Purpose. The purpose of the western Montana conservation commission

1 is to protect the existing high quality of western Montana's aquatic resources.

2

3 NEW SECTION. Section 4. Definitions. As used in [sections 2 through 8], the following definitions

4 apply:

5 (1) "Aquatic resources" means all beneficial uses of water, including but not limited to water quality
6 and water supply; recreational, scenic, and aesthetic values; and fish, wildlife, and other organisms, including
7 the prevention and management of aquatic invasive species.

8 (2) "Commission" means the western Montana conservation commission established in [section 1].

9 (3) "Department" means the department of natural resources and conservation.

10 (4) "Western Montana" means all land and water areas west of the continental divide and within
11 the Montana portion of the headwaters of the Columbia River basin.

12

13 NEW SECTION. Section 5. Duties of the commission. Duties of the commission are to:

14 (1) monitor the existing condition of natural resources in western Montana and coordinate
15 development of a 5-year monitoring strategy. This strategy must be developed with input from all land and
16 water management agencies within western Montana and identify proposed and needed monitoring that
17 emphasizes but is not limited to the aquatic resources of western Montana.

18 (2) support, promote, and ensure the continuation of a comprehensive aquatic invasive species
19 prevention program in western Montana to assure it is implemented effectively and efficiently to protect aquatic
20 resources, local economies, and native species;

21 (3) encourage close cooperation and coordination between federal, state, provincial, tribal, and
22 local resource managers for the establishment of consistent natural resource conservation practices,
23 comprehensive monitoring, data collection, and interpretation;

24 (4) encourage and work for international coordination between the state of Montana and the
25 province of British Columbia concerning the undertaking of natural resource monitoring and use of consistent
26 standards for management of natural resources throughout the region that may have influences on aquatic
27 resources within western Montana;

28 (5) provide focused support and programming to the aquatic and natural resources of the Flathead

- 1 River basin given its economic, cultural, and natural resource importance to the state of Montana;
- 2 (6) support economic development and use of western Montana's resources to their fullest extent
- 3 without compromising the aquatic resources of western Montana;
- 4 (7) undertake, with the commission's discretion, investigations of resource utilization and hold
- 5 public hearings concerning the condition of aquatic resources and other natural resources in western Montana;
- 6 (8) use the result of the duties performed pursuant to subsections (1) through (7) to create public-
- 7 private partnerships that:
- 8 (a) result in projects to reduce point source water pollution and nonpoint source water pollutions,
- 9 as those terms are defined in 75-5-103;
- 10 (b) prevent the spread of invasive species; and
- 11 (c) maintain, enhance, restore, expand, or benefit the aquatic resources of western Montana;
- 12 (9) implement in collaboration with the department policies pursuant to 85-1-101, through the
- 13 administration of portions of the renewable resource grant and loan program under 85-1-601, within western
- 14 Montana;
- 15 (10) implement in collaboration with the department the portion of state policy expressed in the
- 16 reclamation and development grants program act under 90-2-1102 through administration of grants and loans
- 17 within western Montana;
- 18 (11) submit to the governor, and the legislature the environmental quality council, and the water
- 19 policy interim committee, in accordance with 5-11-210, a biennial report that includes:
- 20 (a) a summary of information gathered in fulfillment of its duties under this section;
- 21 (b) information on monitoring activities within western Montana concerning the condition of the
- 22 region's natural resources with particular emphasis on aquatic resources;
- 23 (c) the identification of land use, land development, and economic trends in western Montana;
- 24 (d) recommendations the commission considers appropriate for fulfillment of its duties and for the
- 25 continued preservation of aquatic resources in western Montana; and
- 26 (e) an accounting of all money received and disbursed, by source and purpose, for the period
- 27 since the last biennial report; and
- 28 (12) meet at least semiannually within western Montana at locations selected by the commission.

1

2 **NEW SECTION. Section 6. Commission authority.** (1) The commission may request the governor
3 petition a state natural resource agency or that agency's rulemaking body to promulgate, amend, or repeal a
4 rule addressing natural resource issues identified by the commission.

5 (2) The commission may petition a county, conservation district, or tribal council to promulgate,
6 amend, or repeal local ordinances to resolve natural resource issues identified by the commission.

7 (3) The commission shall participate with the department in preparation of a state budget pursuant
8 to Title 17, chapter 7, part 1, in order to identify disbursements necessary to complete the commission's
9 purpose and duties.

10 (4) Subject to appropriation by the legislature, the commission may receive and expend
11 disbursements, donations, gifts, grants, and other funds necessary to fulfill its purpose and duties.

12
13 **NEW SECTION. Section 7. Special county government authority.** The governing body of a county
14 within western Montana may allocate to the commission a portion of any funds available from coal severance
15 tax allocations or other sources that is designated for project or planning activities.

16
17 **NEW SECTION. Section 8. Cooperation with other agencies and organizations.** To fulfill its
18 duties, the commission shall develop and maintain cooperative programs with federal, state, provincial, tribal,
19 and local agencies or organizations that are responsible for natural resource management and monitoring in
20 western Montana.

21
22 **NEW SECTION. Section 9. Repealer.** The following sections of the Montana Code Annotated are
23 repealed:

- 24 2-15-3310. Upper Columbia conservation commission.
- 25 2-15-3330. Flathead basin commission -- membership -- compensation.
- 26 2-15-3331. Flathead basin commission.
- 27 2-15-3332. Flathead basin commission staff and office location.
- 28 75-7-301. Short title.

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- 1 75-7-302. Purpose.
- 2 75-7-303. Definitions.
- 3 75-7-304. Duties of the commission.
- 4 75-7-305. Commission authority.
- 5 75-7-307. Special county government authority.
- 6 75-7-308. Cooperation with other agencies and organizations.
- 7 80-7-1026. Upper Columbia conservation commission -- purpose and duties.

8
9 **NEW SECTION. Section 10. Codification instruction.** (1) [Section 1] is intended to be codified as
10 an integral part of Title 2, chapter 15, part 33, and the provisions of Title 2, chapter 15, part 33, apply to [section
11 1].

12 (2) [Sections 2 through 8] are intended to be codified as a new chapter in Title 85, and the
13 provisions of Title 85 apply to [sections 2 through 8].

14
15 **NEW SECTION. Section 11. Effective date.** [This act] is effective July 1, 2023.

16 - END -