

2009 WATER LEGISLATION

Water Policy Interim Committee Bills

Passed -- HB39 -- Revise water right enforcement laws

- When requested by a district court and approved by the chief water judge, Water Court water masters may serve as special masters in certain water disputes.
- When enforcing water law, priority should be given to protecting the rights of senior users.
- The DNRC may attempt to obtain voluntary compliance, but the attorney general and the county attorney do not need to attempt compliance.
- Allows county attorney to request assistance from AG in water right cases.
- Allows CA or AG to act without being requested by DNRC.

Passed -- HB41 -- Revise water quality laws for aquifer recharge or mitigation

- Amends water quality laws for mitigation and aquifer recharge.
- Clarifies that any discharge of pollutants state waters needs discharge permit.
- Does not affect septic or instream changes.
- Sewage systems for aquifer injection must meet more stringent of either drinking water or nondegradation standards.
- Sewage systems used for aquifer recharge must meet either of those standards. The difference is that aquifer injection does not allow the water to be filtered through the ground to the aquifer.

Passed -- HB40 -- Revise DNRC permitting process

- Changes “correct and complete” to mean that is when DNRC starts evaluating the application – not when done. (This was the subject of a lawsuit in Gallatin County in which a judge ordered DNRC to issue a permit when it deemed the application was correct and complete).
- Requires DNRC to publish notice of permit application on web site.
- Within 120 days of correct and complete, the DNRC may meet informally with applicant and shall issue a preliminary determination. (This allows applicant to know earlier in the process which way the agency is leaning).

Passed -- SB22 -- Create interim Water Policy Committee

- Eight members, bipartisan. Two members must possess agricultural experience.
- Does not take agency oversight or water-related duties away from Environmental Quality Council.
- Requires the Water Policy Committee to coordinate with the EQC and other interim committees to avoid duplication of efforts.

Passed HB52 -- Create ground water investigation program

- Provides \$4.2 million for ground water investigation program at MBMG.
- Ground water assessment steering committee shall prioritize subbasins for investigation based upon current and anticipated growth of agriculture, industry, housing, commercial activity.

- Permit applications for the development of surface water or ground water and the timing of adjudication of water rights may be taken into account in prioritizing subbasins.

- Adds member of development community to Groundwater Assessment Steering Committee.

- General fund appropriation.

Died – HB25 – Certificate of water right for MDT

Would have allowed MDT an appropriation permit to restore a functional wetland with the intent to substantially replicate the predisturbance conditions by filling in or removing constructed ditches, drains, or similar structures that drained a historically functional wetland.

Died – SB17 – Require public water and sewer in certain subdivisions

Would have required public water and public sewer systems in subdivisions of at least 30 lots with an average lot size of 3 acres or less. A developer could have proposed an alternative water or sewer system, but the alternative would have needed county approval.

General Bills Passed and Approved

SB8 – Regional resource authorities may be created to provide for collaboration and coordination in the conservation of water resources or in the management of water resources for agricultural and recreational uses.

HB285 -- Authorize use of gray water in commercial and multifamily structures.

SB39 -- Extend duration of reserved water rights compact commission to 2013.

SB129 -- Authorizing the adoption of rules for corrective action by public water supply systems or public sewage systems to prevent or correct contamination of drinking water.

SB120 -- Revising controlled ground water laws; granting rulemaking authority; allowing petitions from local entities and water right holders; allowing consideration of funding and studies; revising criteria for designating or modifying a controlled ground water area; expanding control provisions; removing preferences for domestic and livestock withdrawals.

SB201 -- Revise Crow Tribe water compact to allow change in use of escrow account

SB262 -- Allows county water and sewer districts to assess the cost of services and improvements by dwelling unit.

HB161 -- Ratifies the water rights compact entered into by the Blackfeet tribe, Montana and the federal government, transfers \$4 million from the general fund to the Blackfeet tribe water rights compact infrastructure account and appropriates funds for water-related infrastructure projects within the exterior boundaries of the Blackfeet Indian reservation.

SB95 – Establishes temporary nutrient criteria for discharge permits. Allows DEQ, in consultation with a nutrient work group, to consider economic and technological impacts of nutrient standards on a case-by-case basis.

SB102 – Allows the adoption of rules for corrective action by public water supply systems or public sewage systems to prevent or correct contamination of drinking water.

SB200 – Bans the sale after July 1, 2010 of phosphorus-containing household cleaning products in certain counties for water quality reasons.

SB426 – Adopts the National Bison Range Water Compact.

SB303 -- Sections of the state water plan must be completed for the Missouri, Yellowstone, and Clark Fork river basins, submitted to the 2015 legislature.

SB396 -- An appropriator may change an appropriation right for a replacement point of diversion without the prior approval of the department if the existing point of diversion is inoperable due to natural causes or deteriorated infrastructure and other conditions.

General Bills Died in Process

HB236 -- Requiring a landlord who supplies water to tenants from a private well or other private water source to annually test the water for the presence of fecal coliform and escherichia coli bacteria and take corrective action if the water tests positive.

HB275 -- Providing a statement of purpose and findings for a declaration of emergency streamflow; classifying an emergency streamflow as an emergency appropriation enforceable by the department of natural resources and conservation.

HB379 -- Providing an exemption from permitting requirements for a municipal water right; clarifying the change of appropriation right requirements for a municipal water right for which a permit is not required.

HB470 -- Clarifying recovery of costs and attorney fees in water proceedings.

HB575 -- Providing that water produced in association with coal bed methane production may be used for certain purposes; allowing a temporary permit for the beneficial use of water from coal bed methane production; increasing compensation from the coal bed methane protection program; assessing a fee; requiring a study of issues related to water in association with oil and gas production.

HB632 --Transferring funds from the water adjudication state special revenue account to the natural resources operations state special revenue account; requiring a report on the workload and the resources needed for water adjudication activities.

HB665 -- Requiring that public sewage systems in cities with a population of more than 20,000 meet the more stringent of either primary drinking water standards or nondegradation standards at the point of discharge.

SB4 -- Revising laws governing the environmental quality council; creating a water policy subcommittee of the environmental quality council; specifying membership of the subcommittee; eliminating restrictions on terms of office on the environmental quality council.

SB6 -- Increasing annual fees related to public water supply systems.

SB93 -- Revising requirements for ground water appropriation in closed basins; requiring mitigation for net depletion to surface water.

SB94 -- Revising requirements for ground water appropriation in closed basins; adding Milk River basin to closed basin ground water appropriation requirements; revising requirements for hydrogeologic assessments, mitigation plans, and aquifer recharge plans; limiting sources of aquifer recharge or mitigation; requiring that use of water cease after aquifer testing.

SB101 -- Generally revising the laws relating to water and wastewater treatment plant operators; allowing certification by the department of environmental quality for wastewater collection system operators.

SB149 -- Allowing a municipality or a county water and sewer district to change the place of use of a water appropriation right without prior approval under certain circumstances.

SB314 -- Defines "natural" and "natural water body" for purposes of the law governing the recreational use of streams.

SB324 -- Providing that an appropriation of water after January 25, 1951, in the Clark Fork River watershed in the state of Montana for irrigation and domestic use above a dam located within 25 miles of the Montana-Idaho boundary has priority over water for power use at a dam.

SB407 -- Identifying certain federal irrigation district contracts that are subject to petition and judicial review; requiring judicial review of contract proceedings.

SB421 -- Clarifying adverse effect in water law; providing that a net depletion of a water source does not necessarily mean the water right of a senior appropriator is adversely affected; declaring that a new appropriation of water under a certain amount cannot adversely affect power generation water rights.

SB422 -- Providing that an objection by the holder of a power generation water right to a new appropriation may be considered water speculation; providing that an adverse effect must be measurable when addressing a new appropriation right or a change in appropriation right.

SB437 -- Prohibiting the issuance of a fish pond license for a body of water supplied by an exempt appropriation of ground water.

SB461 -- Allowing a public or private entity that provides water to a municipality, a regional water authority, or a county water and sewer district to change the place of use of a water appropriation right without prior approval under certain circumstances.

SB505 -- Creating a temporary permit for the beneficial use of water produced in association with coal bed methane; limiting the beneficial uses of water produced in association with coal bed methane; defining the source and point of diversion for a temporary permit to beneficially use water produced in association with coal bed methane; assessing a fee.

SJR7 -- Oppose federal Clean Water Restoration Act of 2007.