

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

A Bill for an Act entitled: "An Act modifying the organization and duties of river basin councils; repealing laws related to certain Clark Fork watershed groups; amending sections 85-1-203 and 85-2-336, MCA; and repealing sections 85-2-335, 85-2-338, and 85-2-350, MCA."

Be it enacted by the Legislature of the State of Montana:

**Section 1.** Section 85-1-203, MCA, is amended to read:

**"85-1-203. State water plan.** (1) The department shall gather from any source reliable information relating to Montana's water resources and prepare from the information a continuing comprehensive inventory of the water resources of the state. In preparing this inventory, the department may:

- (a) conduct studies;
- (b) adopt studies made by other competent water resource groups, including federal, regional, state, or private agencies;
- (c) perform research or employ other competent agencies to perform research on a contract basis; and
- (d) hold public hearings in affected areas at which all interested parties must be given an opportunity to appear.

(2) The department shall formulate and adopt and amend, extend, or add to a comprehensive, coordinated multiple-use water

resources plan known as the "state water plan". The state water plan may be formulated and adopted in sections, with some of these sections corresponding with hydrologic divisions of the state. The state water plan must set out a progressive program for the conservation, development, utilization, and sustainability of the state's water resources and propose the most effective means by which these water resources may be applied for the benefit of the people, with due consideration of alternative uses and combinations of uses.

(3) Sections of the state water plan must be completed for the Missouri, Yellowstone, and Clark Fork River basins, submitted to the 2015 legislature, and updated at least every 20 years. These basinwide plans must include:

- (a) an inventory of consumptive and nonconsumptive uses associated with existing water rights;
- (b) an estimate of the amount of surface and ground water needed to satisfy new future demands;
- (c) analysis of the effects of frequent drought and of new or increased depletions on the availability of future water supplies;
- (d) proposals for the best means, such as an evaluation of opportunities for storage of water by both private and public entities, to satisfy existing water rights and new water demands;
- (e) possible sources of water to meet the needs of the state; and
- (f) any legislation necessary to address water resource concerns in these basins.

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(4) (a) ~~The department shall create a water user council in both the Yellowstone and Missouri River basins that is inclusive and representative of all water interests and interests in those basins. For the Clark Fork River basin, the department shall continue to utilize the Clark Fork River basin task force established pursuant to 85-2-350. The department may create river basin councils in the Clark Fork, Kootenai, Milk and St. Mary's, Missouri, and Yellowstone river basins that are inclusive and representative of all water interests in those basins.~~

(b) ~~The councils in the Missouri and Yellowstone River basins consist of representatives of existing water shed groups or councils within the basins. The river basin councils must consist of representatives nominated by existing watershed group and conservation districts, as well as other water users within the basins.~~

(c) Each council may have up to 20 members.

(d) Each water user council shall make recommendations to the department on the basinwide plans required by subsection (3).

(e) River basin council members must be selected on the basis of their knowledge of water use, water management, agriculture, fish, wildlife, recreation, water quality, and water conservation.

(5) The goals of the river basin councils are to:

(a) provide a forum for all interests to communicate about water issues;

(b) provide education about water law and water management issues;

- (c) identify short-term and long-term water management issues and problems and to suggest alternatives for resolution;
- (d) facilitate the resolution of water-related disputes;
- (e) coordinate other basin management and planning efforts;
- (f) advise government agencies about water management and permitting activities; and
- (g) consult with local and tribal governments within the basin.

~~(5)~~(6) Before adopting the state water plan or any section of the plan, the department shall hold public hearings in the state or in an area of the state encompassed by a section of the plan if adoption of a section is proposed. Notice of the hearing or hearings must be published for 2 consecutive weeks in a newspaper of general county circulation in each county encompassed by the proposed plan or section of the plan at least 30 days prior to the hearing.

~~(6)~~(7) The department shall submit to the water policy committee established in 5-5-231 and to the legislature at the beginning of each regular session the state water plan or any section of the plan or amendments, additions, or revisions to the plan that the department has formulated and adopted.

~~(7)~~(8) The legislature, by joint resolution, may revise the state water plan.

~~(8)~~(9) The department shall prepare a continuing inventory of the ground water resources of the state. The ground water inventory must be included in the comprehensive water resources inventory described in subsection (1) but must be a separate

component of the inventory.

~~(9)~~(10) The department shall publish the comprehensive inventory, the state water plan, the ground water inventory, or any part of each, and the department may assess and collect a reasonable charge for these publications.

~~(10)~~(11) In developing and revising the state water plan as provided in this section, the department shall consult with the water policy committee established in 5-5-231 and solicit the advice of the water policy committee in carrying out its duties under this section."

{ *Internal References to 85-1-203:*  
x85-2-105      x85-2-350      x85-2-350 }

**Section 2.** Section 85-2-336, MCA, is amended to read:

**"85-2-336. Basin closure -- exception.** (1) As provided in 85-2-319 and subject to the provisions of subsection (2) of this section, the department may not grant an application for a permit to appropriate water within the Upper Clark Fork River basin.

(2) The provisions of subsection (1) do not apply to:

(a) an application for a permit to appropriate ground water if the applicant complies with the provisions of 85-2-360;

(b) an application for a permit to appropriate surface water to conduct aquatic resource activities carried out in compliance with and as required by the federal Clean Water Act of 1977, 33 U.S.C. 1251 through 1387. A permit issued to conduct aquatic resource actions may not be used for dilution.

(c) an application for a permit to appropriate water for

stock use;

(d) an application to store water;

(e) an application submitted pursuant to 85-20-1401,

Article VI; or

(f) an application for power generation at existing hydroelectric dams. The department may not approve a permit for power generation if approval results in additional consumption of water.

(3) A change of use authorization for changing the purpose of use may not be issued for any permit issued pursuant to subsection (2) (b) or (2) (c).

(4) Except as provided in 85-20-1401, applications for state water reservations in the Upper Clark Fork River basin filed pursuant to 85-2-316 and pending as of May 1, 1991, have a priority date of May 1, 1991. The filing of a state water reservation application does not provide standing to object under 85-2-402.

(5) Except as provided in 85-20-1401, the department may not process or approve applications for state water reservations in the Upper Clark Fork River basin filed pursuant to 85-2-316.

(6) For the purposes of this section, the following definitions apply:

(a) "Application" means an application for a beneficial water use permit pursuant to 85-2-302.

(b) "Upper Clark Fork River basin" means the drainage area of the Clark Fork River and the Blackfoot River and their tributaries above the confluence of the Clark Fork River and the

Blackfoot River."

{ Internal References to 85-2-336:  
x85-2-311 x85-2-335 x85-2-338 x85-2-360  
x85-2-380 }

NEW SECTION. Section 3. {standard} Repealer.

85-2-335. Definitions.

85-2-338. Upper Clark Fork River basin steering committee --  
membership and duties -- comprehensive management plan.

85-2-350. Clark Fork River basin task force -- duties -- water  
management plan.

{ Internal References to 85-2-335: x85-2-335 x85-2-350  
Internal References to 85-2-338: x85-2-335  
Internal References to 85-2-350: x85-1-203 }

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