

SENATE BILL NO. 47

INTRODUCED BY J. COHENOUR

BY REQUEST OF THE WATER POLICY INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE USE OF RIVER BASIN ADVISORY COUNCILS FOR DEVELOPING AND IMPLEMENTING THE STATE WATER PLAN; CLARIFYING THAT A STATE WATER PLAN MUST BE DEVELOPED BY 2035; EXTENDING THE USE OF RIVER BASIN ADVISORY COUNCILS IN THE MISSOURI, YELLOWSTONE, CLARK FORK, AND KOOTENAI RIVER BASINS TO AID DEVELOPMENT OF THE STATE WATER PLAN; CLARIFYING THE MEMBERSHIP OF RIVER BASIN ADVISORY COUNCILS; ADDING REQUIREMENTS FOR THE STATE WATER PLAN; AMENDING SECTION 85-1-203, MCA; AND REPEALING SECTION 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 sources information relating to Montana's water resources and prepare from ~~the~~ that 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 must 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

1 combinations of uses.

2 (3) Sections of the state water plan must be completed for the Missouri, ~~Yellowstone, and Clark Fork~~
3 ~~River basins;~~ River basin, the Yellowstone River basin, and the Clark Fork and Kootenai River basins, be
4 submitted to the ~~2015~~ 2035 legislature, and be updated at least every 20 years. These basinwide plans must
5 include:

6 (a) an inventory of consumptive and nonconsumptive uses associated with existing water rights;

7 (b) identified data gaps and water management issues;

8 ~~(b)(c)~~ (c) an estimate of the amount of surface and ground water needed to satisfy new future demands;

9 ~~(c)(d)~~ (d) analysis of the effects of frequent drought and of new or increased depletions on the availability
10 of future water supplies;

11 ~~(d)(e)~~ (e) proposals for the best means to satisfy existing water rights and new water demands, such as an
12 evaluation of opportunities for storage of water by both private and public entities, ~~to satisfy existing water rights~~
13 ~~and new water demands;~~

14 ~~(e)(f)~~ (f) possible sources of water to meet the needs of the state; and

15 ~~(f)(g)~~ (g) any legislation necessary to address water resource concerns in these basins.

16 (4) (a) The department shall create ~~a water user council in both~~ a new basin council or use an existing
17 ~~basin council~~ A BASIN ADVISORY COUNCIL in the Missouri River basin, in the Yellowstone River basin, and ~~Missouri~~
18 and in the Clark Fork and Kootenai River basins that is inclusive and representative of all water interests and
19 interests in those basins. ~~For the Clark Fork River basin, the department shall continue to utilize the Clark Fork~~
20 ~~River basin task force established pursuant to 85-2-350.~~

21 (b) The ~~councils in the Missouri and Yellowstone River basins consist of representatives of existing~~
22 ~~watershed groups or councils within the basins~~ basin ADVISORY councils must consist of members of watershed
23 ~~groups or water use organizations, irrigators, local government officials, tribal members, and water resource~~
24 ~~specialists~~ KEY WATER INTERESTS WITHIN THE BASINS, INCLUDING, ON RECOMMENDATION FROM RELEVANT WATER USER
25 INTEREST GROUPS, AT LEAST ONE REPRESENTATIVE EACH FROM:

26 (I) AGRICULTURAL;

27 (II) INDUSTRIAL;

28 (III) CONSERVATION;

29 (IV) MUNICIPAL;

30 (V) RECREATIONAL;

1 (VI) TRIBAL;

2 (VII) IRRIGATION;

3 (VIII) CONSERVATION DISTRICT; AND

4 (IX) WATERSHED ORGANIZATIONS.

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

6 (d) Each ~~water user~~ basin ADVISORY council shall make recommendations to the department on the
7 development and implementation of the basinwide plans required by subsection (3).

8 (E) THE DEPARTMENT MAY USE EXISTING BASIN COUNCILS AS A BASIN ADVISORY COUNCIL IF THE COMPOSITION
9 AND PURPOSE OF THE EXISTING BASIN COUNCIL IS CONSISTENT WITH THIS SUBSECTION (4).

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

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

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

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

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

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

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29 NEW SECTION. Section 2. Repealer. The following section of the Montana Code Annotated is
30 repealed:

1 85-2-350. Clark Fork River basin task force -- duties -- water management plan.

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3 NEW SECTION. **Section 3. Notification to tribal governments.** The secretary of state shall send a
4 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
5 Chippewa tribe.

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