

MINUTES OF THE SELECT COMMITTEE ON WATER
March 26, 1981

The Select Committee on Water convened at 1:00 p.m. in Room 436 of the Capitol on Thursday, March 26, 1981 with Chairman Roth presiding. All members were present except for REP. CONROY.

Since there were no hearings scheduled, CHAIRMAN ROTH called the committee into Executive Session.

EXECUTIVE SESSION.

SB 285.

REP. KEMMIS moved that SB 285 BE NOT CONCURRED IN.

CHAIRMAN ROTH read the new portion of the law as stated on page 2, line 2 through page 3, line 8 of the bill. She asked Gary Fritz of the Department of Natural Resources his opinion of the constitutionality of the bill.

FRITZ answered that he felt the legality was doubtful.

CHARLIE CRANE, of the Montana Water Development Association, commented that there is a significant difference between a "reservation" and a "right".

REP. CURTISS said she thought the reason for the bill was to correct the times that reservations were signed to assure agriculture of having the amount of water needed.

REP. SCULLY commented that this bill would be creating many problems, as it would create a preference system.

REP. CURTISS said that we have a preference system now, as some of the reservations were signed minutes before others.

SCULLY said there is a priority in terms of allocation importance, but this would be a preference system.

REP. CURTISS wondered if the attempt to correct this problem might have asked that certain uses cannot be modified and transferred to another reservation.

SCULLY said that every 10 years reservations are examined and changed if a need is found. He said he doesn't feel there is a problem, that no one who has applied has been refused a water reservation. He also commented that it would be illegal to make the provision retroactive, he felt.

REP. HUENNEKENS said that future legislatures might change this situation.

REP. ASAY said he was told this problem could be handled by the department (DNRC). FRITZ (DNRC) concurred. He also said that agriculture could get water throughout the driest periods--that was the purpose of the minimum flow regulation.

REP. KEMMIS' motion of BE NOT CONCURRED IN was seconded and PASSED by a vote of 6 YES, 3 NO with 1 absent.

HJR 53

CHAIRMAN ROTH announced that action was being delayed to give the Confederated Salish and Kootenai Tribes of the Flathead Reservation an opportunity to respond to this joint resolution. It will be held in committee until that time, as it was Indefinitely Postponed at the hearing on March 24, 1981.

The meeting adjourned at 1:30 p.m.



AUDREY ROTH, CHAIRMAN

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