

MINUTES OF THE MEETING OF THE APPROPRIATIONS COMMITTEE
March 28, 1983

The Appropriations Committee met at 8:05 a.m. on March 28, 1983, in Room 104, which Chairman Francis Bardanouve presiding. Representative Shontz was absent and all other members were present. Judy Rippingale, Legislative Fiscal Analyst, was also present. EXECUTIVE ACTION was taken on HOUSE BILLS 108, 334, 597, 613, 711, 726, 745, 876, 897, 914, 922, and 924.

(Tape 11: Track 2:0477)

***EXECUTIVE ACTION:

There was some discussion regarding the bills to be funded with Resource Indemnity Trust funds and Renewable Resource Development funds. Representative MANUEL asked that the bills to be funded with RIT money should be given at least \$1,000 so they can be passed on to the Senate should some money become available.

HOUSE BILL 597:

Representative BENGTON moved to fund HOUSE BILL 597 with \$48,800 from Renewable Resource Development funds and HOUSE BILL 597 do pass.

Representative STOBIE was concerned that some of the projects that went through the grant process were turned down and he did not feel it was right to pass this project. Representative BARDANOUVE said this area has never received any grant money and this project is a priority in that area.

The Chairman requested a roll call vote. Representatives BARDANOUVE, BENGTON, CONNELLY, DONALDSON, ERNST, LORY, MANUEL, PECK, QUILICI, ROUSH, THOFT, and WINSLOW approved the motion. Representatives STOBIE and HEMSTAD opposed the motion. The motion was PASSED.

HOUSE BILL 876:

There was some discussion regarding this project and the possibility of coming in for a loan or a general obligation bond.

Representative MANUEL moved to fund HOUSE BILL 876 with \$1,000 from Resource Indemnity Trust funds.

Representative STOBIE opposed the motion. All other members approved the motion. The motion was PASSED.

HOUSE BILL 108:

Representative MANUEL moved to fund HOUSE BILL 108 with \$1,000 from Resource Indemnity Trust funds.

The motion was passed UNANIMOUSLY.

HOUSE BILL 745:

Representative MANUEL moved to fund HOUSE BILL 745 with \$1,000 from Resource Indemnity Trust funds.

The motion was passed UNANIMOUSLY.

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HOUSE BILL 334:

Representative MANUEL moved to fund HOUSE BILL 334 with \$1,000 from Resource Indemnity Trust funds.

The motion was passed UNANIMOUSLY.

HOUSE BILL 108:

Representative HEMSTAD moved that HOUSE BILL 108 do pass as amended.

The motion was passed UNANIMOUSLY.

HOUSE BILL 334:

Representative HEMSTAD moved that HOUSE BILL 334 do pass as amended.

The motion was passed UNANIMOUSLY.

HOUSE BILL 745:

Representative HEMSTAD moved that HOUSE BILL 745 do pass as amended.

The motion was passed UNANIMOUSLY.

HOUSE BILL 876:

Representative HEMSTAD moved that HOUSE BILL 876 do pass as amended.

The motion was passed UNANIMOUSLY.

HOUSE BILL 897:

There was some discussion about timber stand improvements for state lands and the Lubrecht forest.

Representative STOBIE moved to reconsider committee action on HOUSE BILL 897.

The motion was passed UNANIMOUSLY.

Representative STOBIE moved to amend HOUSE BILL 897 as follows:

Page 12, Line 3:

Strike: \$100,000

Insert: \$157,000.

The motion was passed UNANIMOUSLY.

Representative STOBIE wanted to make it clear that the intent of this motion was to spend the money on state lands because timber stand improvements are needed statewide.

Representative STOBIE moved that HOUSE BILL 897 do pass as amended.

Representatives ERNST, LORY, HEMSTAD, and WALDRON opposed the motion. All other members approved the motion. The motion was PASSED.

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HOUSE BILL 726:

Representative WALDRON moved that HOUSE BILL 726 be tabled.

The motion was passed UNANIMOUSLY.

HOUSE BILL 914:

Representative STOBIE moved to fund HOUSE BILL 914 with \$1,000 from Renewable Resource Development funds.

The motion was passed UNANIMOUSLY.

Representative STOBIE moved that HOUSE BILL 914 do pass as amended.

The motion was passed UNANIMOUSLY.

HOUSE BILL 711:

Representative DONALDSON moved that HOUSE BILL 711 do not pass.

There was some discussion regarding this bill. LEO BERRY, Director for the Department of Natural Resources and Conservation, explained the proposed amendments (Exhibit 1). The amendments provide for 1/2 of the adjudication process to be funded from fees collected from claimants. Those claimants that have already paid the \$40 per claim will be credited for that amount. The Department would go through each basin and assess the cost for the adjudication process and bill on a pro rata basis. The Department will borrow from the General Fund because these funds will not be generated right away. The fees will then be deposited in the General Fund to pay off the debt. There was some discussion about what the fees will run per claimant.

Mr. BERRY said the proposed amendment would require both federal and state governments to pay their share of the adjudication process.

Representative THOFT said this bill would put a burden on the people going through the adjudication process. Representative BARDANOUE said, if this bill does not pass, it will put a burden on the General Fund. Representative THOFT felt this bill would make poor farmers even poorer. Representative WALDRON objected to having to pay to cost of this adjudication process as a taxpayer because it does not affect him and he felt the cost of the process should be borne by the people affected by it. Representative DONALDSON asked if district courts then should not just be paid for by the people who use them.

Representative HEMSTAD made a substitute motion that HOUSE BILL 711 be tabled.

The Chairman requested a roll call vote. Representatives BENGTON, CONNELLY, DONALDSON, ERNST, HEMSTAD, QUILICI, ROUSH, STOBIE, THOFT, and WINSLOW approved the motion. Representatives BARDANOUE, LORY, MANUEL, PECK, and WALDRON opposed the motion. The motion was PASSED.

Minutes of the meeting of the Appropriations Committee
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HOUSE BILL 922:

ELLEN FEAVER, Director of the Department of Revenue, explained the Department's position on this bill. The Department does not agree with the judge that it is appropriate for the Department to pay the attorney's fees but the cost of appealing would be more than the cost of paying the fees.

Representative STOBIE moved that HOUSE BILL 922 do pass.

Representative PECK opposed the motion. All other members approved the motion. The motion was PASSED.

NOTE: Representative ROUSH was excused from voting because he has a conflict of interest.

HOUSE BILL 924:

Ms. FEAVER said the district court judge agreed that the Department had properly measured the 600 feet from the bar to the church. The Supreme Court, however, said the Department had an improper interpretation of the law and the taxpayer was awarded attorney's fees.

Ms. FEAVER explained that a law passed in the 1981 session said attorney's fees could not be awarded if the Department acted in good faith. However, there was a prior statute on the books that conflicts in its language. The Supreme Court went with the earlier language and said what the legislature did in the 1981 session had no effect on this action. Ms. FEAVER said this is a real problem in the statutes and, until it is changed, this kind of thing will keep coming up.

Representative LORY moved that HOUSE BILL 924 do pass.

Representatives QUILICI, THOFT, and PECK opposed the motion. All other members approved the motion. The motion was PASSED.

HOUSE BILL 613:

Representative DONALDSON moved to reconsider committee action on HOUSE BILL 613.

The motion was passed UNANIMOUSLY.

Representative LORY moved to amend HOUSE BILL 613 to include \$10 for each fiscal year of the biennium for the Health Department Subdivision Bureau.

The motion was passed UNANIMOUSLY.

HOUSE BILL 793:

Representative ROUSH moved to reconsider committee action on HOUSE BILL 793.

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The Chairman requested a roll call vote. Representatives BENGTON, ERNST, HEMSTAD, MENAHAN, QUILICI, ROUSH, STOBIE, and THOFT approved the motion. Representatives BARDANOUVE, CONNELLY, DONALDSON, LORY, MANUEL, PECK, WALDRON, and WINSLOW opposed the motion. The motion DIED in a tie.

The meeting was adjourned at 9:00 a.m.



FRANCIS BARDANOUVE
Chairman

lt

AMENDMENTS TO HOUSE BILL NO. 711

1. Page 1, line 25
Following: "fee."
Insert: "(1) The legislature shall appropriate from the general fund an amount sufficient to cover the estimated expenses of the department and water divisions for the adjudication of existing water rights for each biennium through completion of the adjudication process under this part."
2. Page 2, line 1
Before: "adjudication"
Insert: "(2)"
Following: "cover"
Insert: 50% of
3. Page 2, line 2
Following: "department"
Strike: ", "
Insert: "and"
Following: "divisions"
Strike: ", and the"
4. Page 2, line 3
Before: "incurred"
Strike: "water courts"
5. Page 2, line 7
Following: "with the"
Strike: "projected"
6. Page 2, line 8
Following: "collection."
Insert: "The department may assess such fees based on projected estimates of adjudication costs, provided that fees collected in excess of actual costs shall be refunded."
7. Page 2, lines 8 through 11
Following: "collection."
Strike: "HOWEVER, NO ADDITIONAL FEE MAY BE ASSESSED FOR CLAIMS PRIMARILY FOR THE PURPOSE OF STOCK WATER OR HUMAN CONSUMPTION OR TO CLAIMANTS WITH FEWER THAN 50 INDIVIDUAL CLAIMS."
8. Page 2
Following: line 14
Insert: "(3) All fees paid by a claimant pursuant to 85-2-225 shall be credited against the assessment made in subsection (2)."

AMENDMENTS TO ~~HOUSE BILL NO. 7311~~
(Second Reading)

Francis:
these amendments
to the Water Bill
would make it
50% self supporting
Dane Lewis

1. Page 1, line 25
Following: "fee."
Insert: "(1) The legislature shall appropriate from the general fund an amount sufficient to cover the estimated expenses of the department and water divisions for the adjudication of existing water rights for each biennium through completion of the adjudication process under this part."
2. Page 2, line 1
Before: "adjudication"
Insert: "(2)"
Following: "cover"
Insert: 50% of
3. Page 2, line 2
Following: "department"
Strike: ", "
Insert: "and"
Following: "divisions"
Strike: ", and the"
4. Page 2, line 3
Before: "incurred"
Strike: "water courts"
5. Page 2, line 7
Following: "with the"
Strike: "projected"
6. Page 2, lines 8 through 11
Following: "collection."
Strike: "HOWEVER, NO ADDITIONAL FEE MAY BE ASSESSED FOR CLAIMS PRIMARILY FOR THE PURPOSE OF STOCK WATER OR HUMAN CONSUMPTION OR TO CLAIMANTS WITH FEWER THAN 50 INDIVIDUAL CLAIMS."
7. Page 2
Following: line 14
Insert: "(3) All fees paid by a claimant pursuant to 85-2-225 shall be credited against the assessment made in subsection (2)."

Approved by Committee
on Natural Resources

HOUSE BILL NO. 711

INTRODUCED BY HARRINGTON

BY REQUEST OF THE OFFICE OF

BUDGET AND PROGRAM PLANNING

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ASSESS
AND COLLECT FEES FROM WATER USE CLAIMANTS TO PAY THE
EXPENSES INCURRED BY THE STATE FOR ADMINISTERING CERTAIN
WATER LAWS; AMENDING SECTION 85-2-241, MCA; AND PROVIDING AN
EFFECTIVE DATE."

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

Section 1. Section 85-2-241, MCA, is amended to read:

"85-2-241. Water right adjudication account. There is
established a water right adjudication account in the
separated revenue fund of the state treasury. All fees
collected under this section--and 85-2-225a, 85-2-232a--and
[SECTION 2] shall be deposited in the account to pay
the expenses incurred by the state for administering this
part, part 7, and title 3, chapter 2;

(2) income--and interest--from the investment of the
monies in the water right adjudication account--shall be
credited to the account."

NEW SECTION. Section 2. Adjudication fees.

(1) The legislature shall appropriate from the general fund

an amount sufficient to cover the estimated expenses of
the department and water divisions for the adjudication of
existing water rights for each biennium through completion of the

50% of

1 (2) Adjudication fees must be assessed to cover the actual

2 expenses of the department and the water divisions--and they

3 ~~must be~~ incurred in the adjudication of existing water

4 rights under this part. The department shall assess and

5 collect a fee on every statement of claim filed, based upon

6 the actual adjudication cost of the hydrological basin in

7 which the claim lies, together with the ~~projected~~ cost of

8 billing and collection. ~~However, no additional fees shall be~~

9 ~~assessed for claims submitted for the purpose of storage, water~~

10 ~~rights, or consumption or for settlements with fewer than 10~~

11 ~~adversely affected parties as used herein.~~ ACTUAL ADJUDICATION COSTS

12 INCLUDE ALL COSTS INCURRED IN THE ADJUDICATION OF EXISTING

13 RIGHTS SINCE MAY 1, 1979, THROUGH COMPLETION OF THE

14 ADJUDICATION PROCESS UNDER THIS CHAPTER.

15 NEW SECTION. Section 3. Codification instruction.

16 Section 2 is intended to be codified as an integral part of

17 title 85, chapter 2, part 2, and the provisions of title 85,

18 chapter 2, part 2, apply to section 2.

19 NEW SECTION. Section 4. Effective date. This act is

20 effective July 1, 1983.

-End-

(3) All fees paid by claimant pursuant to
85-2-225 shall be credited against the
assessment made in subsection (2).

~~House Bill No. 213~~

Introduced by Harrington
BY REQUEST OF THE OFFICE OF
BUDGET AND PROGRAM PLANNING

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ASSESS AND COLLECT FEES FROM WATER USE CLAIMANTS TO PAY THE EXPENSES INCURRED BY THE STATE FOR ADMINISTERING CERTAIN WATER LAWS; AMENDING SECTION 85-2-241, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 85-2-241, MCA, is amended to read:

"85-2-241. Water right adjudication account. (1) There is established a water right adjudication account in the earmarked revenue fund of the state treasury. All fees collected under this section and 85-2-225, 85-2-232, and (section 2) shall must be deposited in the account to pay the expenses incurred by the state for administering this part, part 7, and Title 3, chapter 7.

(2) Income and interest from the investment of the money in the water right adjudication account must be credited to the account."

NEW SECTION. Section 2. Adjudication fee. (1) Adjudication fees must be assessed to cover the actual expenses of the department, the water divisions, and the water courts incurred in the adjudication of existing water rights under this part. The department shall assess and collect a fee on every statement of claim filed, based upon the actual adjudication cost of the hydrological basin in which the claim lies, together with the projected cost of billing and collection. As used herein actual adjudication costs include all costs incurred in the adjudication of existing rights since May 11, 1979 through completion of the adjudication process under this chapter.

(2) All fees paid by a claimant pursuant to 85-2-225 shall be credited against the assessment made in subsection (1).

NEW SECTION. Section 3. Codification instruction. Section 2 is intended to be codified as an integral part of Title 85, chapter 2, part 2, and the provisions of Title 85, chapter 2, part 2 apply to section 2.

NEW SECTION. Section 4. Effective date. This act is effective July 1, 1983.

-End-

Francis -

this is an amendment to the water adjudication bill to give people a credit for fees paid to file originally. Thus only the ~~the~~ claimants who no fee was paid on originally will be liable for the new fee. My best bet is still to move the bill to appropriate ^{Don}

AMENDMENTS TO HOUSE BILL NO. 711
(Introduced Bill)

1. Page 2, line 1
Before: "Adjudication"
Insert: "(1)"
2. Page 2, line 8
Following: "collection."
Insert: "As used herein actual adjudication costs include
all costs incurred in the adjudication of existing rights since
May 11, 1979 through completion of the adjudication process under
this chapter.
(2) All fees paid by a claimant pursuant to 85-2-225
shall be credited against the assessment made in subsection (1)".

85-7-1904. Acquisition of water and waterworks by board. (1) The board shall have power and authority to:

- (a) appropriate water in the name of the district;
- (b) acquire by purchase, lease, or contract water and water rights; additional waters and supplies of water; canals, reservoirs, dams, and other works already constructed or in the course of construction; and
- (c) acquire by purchase, lease, contract, **condemnation**, or other legal means:

(i) lands and rights in lands for rights-of-way, for reservoirs, for the storage of needful waters, and for dam sites and necessary appurtenances; and

(ii) such other lands and **property** as may be necessary for the construction, use, maintenance, repair, improvement, enlargement, and operation of any district system of irrigation works.

Can condemn water rights

(2) The board shall have the privilege, if desired, to contract with the owner or owners of such canals, reservoirs, dams, and other works so purchased and in the course of construction for the completion thereof.

(3) No purchase, lease, or contract for purchase of any water, water rights, canals, reservoirs, reservoir sites, dam sites, irrigation works, or other property of any nature or kind or for the making or purchasing of surveys, maps, plans, estimates, and specifications or for the purchase of machinery for pumping plants or for the erection of buildings, aqueducts, and other structures necessarily used in connection with such pumping plants, for a

price or rental in excess of \$125,000, is final or binding upon the district, and no sum may be paid for such purchase, lease, or contract without the written consent or petition of at least a majority in number and acreage of the holders of title or evidence of title to the lands within the district. Any splitting or division of such purchase, lease, or contract with the purpose or intention of avoiding or circumventing the provisions of this section shall render such divided or split contract or contracts void.

85-7-1907. Board power to provide sufficient water. Said board may also construct and maintain the necessary dams, reservoirs, and works for the collection and distribution of water for the district, from one or more sources and from different and additional sources; operate such works; secure, in any of the manners provided in this chapter, additional water supplies from the same or different sources; and do any and every lawful act necessary to be done in order that sufficient water may be furnished for irrigation purposes to all the lands in the district included at the time of its organization or at any time thereafter.

X

85-7-1909. Rights-of-way for irrigation works. (1) The board of commissioners shall have the power to construct irrigation works across any stream of water, watercourse, street, avenue, highway, railway, canal, ditch, or flume which the route of said canal or canals may intersect or cross in such manner as to afford security to life and property. Said board shall restore the same, when so crossed or intersected, to its former state, as near as may be, so as not to destroy its usefulness. Every company whose railroad shall be intersected or crossed by said works shall unite with said board in forming said intersection and crossing, and if such railroad company or the owners and controllers of said property, thing, or franchise so to be crossed and said board cannot agree upon the amount to be paid therefor or the points or the manner of said crossing or intersections, the same shall be ascertained and determined in all respects as herein provided in respect to taking of land for public use.

(2) Nothing contained herein shall require the payment to the state or any subdivision thereof of any sum for the right to cross any public highway with any such works. The right-of-way is hereby given, dedicated, and set apart to locate, construct, and maintain said works over and through any of the lands which are now or hereafter may be the property of this state.

STANDING COMMITTEE REPORT

MARCH 21

19 83

MR. SPEAKER

We, your committee on APPROPRIATIONS

having had under consideration HOUSE Bill No. 901

FIRST reading copy (WHITE)
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A BILL FOR AN ACT ENTITLED: "AN ACT APPROPRIATING MONEY TO THE
DEPARTMENT OF ADMINISTRATION FOR PAYMENT OF EMERGENCY AND DISASTER
ASSISTANCE CLAIMS FOR FLOOD DAMAGE OCCURRING IN MAY 1981; AND
PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 901

DO PASS