

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON NATURAL RESOURCES**

**Call to Order:** By CHAIRMAN BOB RANEY, on April 2, 1991, at 12 p.m.

#### **ROLL CALL**

##### **Members Present:**

Bob Raney, Chairman (D)  
Mark O'Keefe, Vice-Chairman (D)  
Beverly Barnhart (D)  
Vivian Brooke (D)  
Ben Cohen (D)  
Ed Dolezal (D)  
Orval Ellison (R)  
Russell Fagg (R)  
Mike Foster (R)  
Bob Gilbert (R)  
David Hoffman (R)  
Dick Knox (R)  
Bruce Measure (D)  
Tom Nelson (R)  
Bob Ream (D)  
Jim Southworth (D)  
Howard Toole (D)  
Dave Wanzenried (D)

**Staff Present:** Gail Kuntz, Environmental Quality Council  
Paul Sihler, Environmental Quality Council  
Lisa Fairman, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

#### **EXECUTIVE ACTION ON SB 189**

**Motion:** REP. FAGG MOVED SB 189 BE CONCURRED IN.

**Motion:** REP. COHEN moved to amend SB 189.

**Discussion:** REP. COHEN said disposal districts can go deeply in debt and issue bonds for financing themselves without a vote of the people. People expect school districts and local governments to go to a vote of the people for a bond. Disposal districts are given powers not given to any other local government. He reviewed amendment No. 3 to require a vote of the people for bonding.

**EXHIBIT 1**

**Vote:** Motion to adopt amendment No. 3 carried unanimously.  
**EXHIBIT 1**

**Discussion:** REP. O'KEEFE said amendments No. 1 and No. 2, **EXHIBIT 1**, were made in committee the last time the bill was discussed. In both cases, problems were caused by putting the amendments on.

**Paul Sihler, Environmental Quality Council**, explained amendment No. 1. He said the committee was concerned that 15 days was too short a time period and amended the bill to 60 days. However, 60 days also creates a problem and doesn't address the original conflict. There are multiple notice period requirements. To make them consistent, the time period has to be 21 days or less, or the reference to general notice law on notice and publication requirements must be omitted. The 21-day time period is in the statute for general government operations.

**Motion:** REP. O'KEEFE moved to amend SB 189 to make the protest period 21 days under 7-13-209. **EXHIBIT 1, Option (a)**

**Discussion:** REP. COHEN asked why the protest period couldn't be longer than 21 days. **Gene Huntington, consultant to EQC**, said it was changed in the original bill because the law dealing with refuse disposal districts says people must have 30 days to protest. A general law in local government says how notice is given and how to handle protests. The bill also refers to the law that says notice cannot be given more than 21 days before the action. If there were 30 days to protest, but notice couldn't be given more than 21 days beforehand, 21 days would be the maximum if reference to the general law on notice is left in. The reference to general law could be eliminated to allow a longer period.

REP. COHEN asked if two notices could be given. He said the first notice could provide a longer notification period and the second notice could be within 21 days. **Mr. Huntington** said the two notice requirement is part of 7-12-121. It states that two notices should be provided no more than 21 days before the act, which shall be in two consecutive weeks no less than three days before the act.

REP. O'KEEFE said the amendment to make the protest 21 days is still proposed.

**Vote:** Motion to amend SB 189 to make the protest period 21 days carried 15-3, with REPS. O'KEEFE, WANZENRIED and COHEN voting no.

**Discussion:** REP. O'KEEFE asked **Mr. Sihler** to review amendment No. 2, **EXHIBIT 1**. He said "sufficient" has a specific meaning in general government law. It means a protest of 50 percent of the property owners. He asked if the committee wanted "sufficient" instead of "factual or legal basis." General government statutes provide guidance on what "sufficient" means, but there isn't guidance on the meaning of "factual or legal basis."

REP. COHEN said the problem with "sufficient," or creating a protest by 50 percent of the property owners, is that there are thousands of property owners, some out of state. It becomes impossible to do. Current wording in the bill should be retained.

Motion: REP. FAGG MOVED THAT SB 189 BE CONCURRED IN AS AMENDED. Motion carried 17-1, with REP. COHEN voting no.

EXECUTIVE ACTION ON SB 253

Motion/Vote: REP. FAGG MOVED SB 253 BE CONCURRED IN. Motion carried 17-1, with REP. GILBERT voting no.

EXECUTIVE ACTION ON SB 303

Motion: REP. GILBERT MOVED SB 303 BE CONCURRED IN.

Discussion: Gail Kuntz, Environmental Quality Council, said SEN. CECIL WEEDING's amendments address concerns of water users and agricultural groups. The amendments further define "adversely affected." EXHIBIT 2

CHAIRMAN RANEY said that under present law in Montana, water quality is not considered when permits are issued. It's time to address water quality. SB 303 does that.

REP. GILBERT said it would be difficult to document the 10 percent increase. He said the amendments are unnecessary.

Vote: SB 303 BE CONCURRED IN. Motion carried 14-4, with REPS. FOSTER, KNOX, ELLISON and HOFFMAN voting no.

EXECUTIVE ACTION ON SB 377

Motion/Vote: REP. BROOKE MOVED SB 377 BE CONCURRED IN. Motion carried unanimously.

EXECUTIVE ACTION ON SB 386

Motion: REP. KNOX MOVED SB 386 BE CONCURRED IN.

Discussion: CHAIRMAN RANEY asked Mr. Sihler why there were numerous references to SB 325 when SB 386 was presented. Mr. Sihler said the two bills relate to water leasing. One relates to irrigators, the other to non-irrigators. SB 386 is the irrigation bill.

CHAIRMAN RANEY asked if SB 386 makes it easier for an irrigator to change a water right, and if it would be much easier under this bill than any of the other bills that changed water rights for instream flow and recharge. Mr. Sihler said the bill allows a temporary change in appropriation right. If water is leased to someone else, the water right holder does not lose the appropriation.

REP. KNOX said SB 425 and SB 386 are steps to revise the water leasing process. A long list of diverse interests support SB 386 bill.

REP. MEASURE said that on Page 6, Line 22, "temporary change pursuant to Section 1 does not constitute an abandonment or serve as evidence that could be used to establish abandonment." It is in the law, and does not need to be stated in this bill.

Motion: REP. MEASURE moved to amend SB 386 to strike Lines 22 through 24.

Discussion: REP. KNOX said he does not follow the logic and will resist the amendment.

REP. MEASURE said water law is one of the most difficult areas of the law. When something is implied in the law, it should not be restated. Every time it is restated, something is added or taken away. This part of the bill has may create a situation in which a lease becomes an absolute right to sell water that might otherwise be competed for.

George Oschenski said the question that was discussed was whether a water right could be protected only to the point of diversion. Once it is past the point of diversion, it is not one's water right. The intent is for the abandonment clause to not apply after the water goes by a diversion if an individual is leasing it.

REP. O'KEEFE said REP. MEASURE made a good point. It seems clear that if the temporary change procedure is followed, the water right has not been abandoned. At the same time, there is no harm in putting this in. The No. 1 premise for abandonment in Montana has been the intent to abandon. It appears it would not be harmful to put this in the bill.

REP. GILBERT said that by leaving it in, it will encourage people who are nervous about the leasing process, to lease water rights. They will be reassured that they won't lose their permit. It is difficult to get anyone to lease water for beneficial purposes now. Mr. Oschenski agreed.

Vote: Motion to amend SB 386 to strike Lines 22 through 24 failed. The tally was unavailable.

Vote: SB BE CONCURRED IN. Motion carried 15-3, with REPS. GILBERT, MEASURE and COHEN voting no.

#### EXECUTIVE ACTION ON SB 426

Motion: REP. FAGG MOVED SB 426 BE CONCURRED IN.

**Discussion:** CHAIRMAN RANEY said he was concerned SB 426 would be used in Washington against Montana regarding water rights and wilderness. SB 426 is confusing. It was obvious that everyone who testified on it was confused about how it would affect water rights for wilderness in the future.

REP. REAM said SB 426 is horrible. It will further divide opinion on wilderness designation. It doesn't apply to existing wilderness, or to water rights in potential wilderness areas. It tries to anticipate what Congress might do and clouds an issue that is already muddy.

REP. FAGG referred to Page 6. He said that if an area is designated a wilderness area, the priority of the water right will be at the time the wilderness bill went into effect, which was 1964 in Montana. That seems beneficial to Montana.

REP. REAM said that is the case unless a federal act establishes a later priority date of appropriation. Congress could specifically forego the federal water right in designated wilderness.

**Motion/Vote:** REP. SOUTHWORTH MOVED THAT SB 426 BE TABLED. Motion carried 15-3, with REPS. KNOX, HOFFMAN and ELLISON voting no.

#### EXECUTIVE ACTION ON SB 434

**Motion:** REP. O'KEEFE MOVED SB 434 BE CONCURRED IN.

**Discussion:** REP. COHEN said he opposes the bill.

**Motion:** CHAIRMAN RANEY moved to amend SB 434. EXHIBIT 3

**Discussion:** CHAIRMAN RANEY said the Atlantic Richfield Corporation (ARCO) indicated that the way the bill is written, the company could get into remedial action along the river and not be able to get water to do the work. He explained the amendment.

**Vote:** Motion to amend SB 434 carried unanimously.

**Motion:** REP. FOSTER moved to further amend SB 434. EXHIBIT 4

**Discussion:** REP. FOSTER said that all parties support the amendments. Amendments No. 1 and 2 clean up the title. Amendment No. 4 deals with the definition of domestic use and groundwater. The problem is that the definitions are not the same as the water bill passed out of committee. The two bills need to be consistent with each other. Amendment No. 8 matches Amendment No. 2 and requires the applicant for groundwater permits to submit a report that proves groundwater, not surface water, would be used. Amendment No. 10 exempts the Blackfoot River and Rock Creek from the moratorium. Amendment No. 11 changes progress report to management plan. The rest are clean up amendments.

**CHAIRMAN RANEY** said he can't support the amendments because he doesn't understand them or what they will do. **REP. GILBERT** said that if someone wants to build a house in the basin, that person would need to get water rights. Without the amendments, no one could do that if the basin were closed.

**REP. O'KEEFE** said he agreed. The amendments clearly exempt the Blackfoot River and Rock Creek where there has been no notification. The domestic use and groundwater exemptions mean the basin would be closed to surface water diversions while affected parties negotiate. The amendments are needed to allow growth in the basin with available groundwater.

**CHAIRMAN RANEY** said the amendments to Page 1, Lines 18 and 19, 85-2-302, specify surface water so that groundwater does not have to be addressed.

**REP. O'KEEFE** said on Page 2, Line 10, the Senate amended the bill to groundwater for any use, not just domestic use. The Senate also was concerned about allowing the appropriation of surface water for domestic use. That is Amendment No. 6. With the amendments the Senate made and the adoption of these amendments, the only thing that the basin is closed to is consumptive diversion of surface waters for uses other than domestic.

**Vote:** Motion to further amend SB 434 carried 14-4, with **REPS. MEASURE, COHEN, RANEY** and **WANZENRIED** voting no.

**Motion:** **REP. O'KEEFE** MOVED SB 434 BE CONCURRED IN AS AMENDED.

**Discussion:** **REP. O'KEEFE** said an opponent of the bill assumed that if the reservation of water in the Clark Fork Basin goes the way it is scheduled, individual water users in the basin will defeat the Department of Fish, Wildlife and Parks (FWP) request for in-stream flows in the basin. He doubts that will happen. The assumption was that FWP proposed the bill to get a better in-stream flow. FWP has technical evidence and is ready for a court battle.

**Vote:** SB 434 BE CONCURRED IN AS AMENDED. Motion carried 17-1, with **REP. MEASURE** voting no.

#### **EXECUTIVE ACTION ON SJR 16**

**Motion:** **REP. SOUTHWORTH** MOVED SJR 16 BE CONCURRED IN.

**Motion:** **REP. O'KEEFE** moved to amend SJR 16.

**Discussion:** **REP. O'KEEFE** said the amendment would be to strike the "whereas" because it is untrue. The first "whereas" states that Montana is the state of origin for all water that flows into the reservoir. That is not true. Some water comes from Canadian provinces. He suggested language be changed to read, "the majority of all water".

REP. MEASURE said the first "whereas" is correct. He opposed the amendment.

REP. O'KEEFE withdrew his motion.

REP. O'KEEFE said Montana is being shut out of negotiations because of ongoing litigation. SJR 16 only speaks to ensuring the water level at Fort Peck Reservoir. The committee passed a resolution at the previous hearing that dealt with things the state could do to fulfill all aspects, not just to keep Fort Peck reservoir full. SJR 16 says Montana is more worried about the water level at Fort Peck Reservoir than having more water for irrigation, in-stream flows, future industrial use, etc. He opposed the resolution.

REP. GILBERT said he supports the resolution. Fort Peck Reservoir is 35 feet below full. It is two miles from the marina to the water. Fort Peck Reservoir is the only large body of water in Eastern Montana. It is important to the people who live there.

REP. O'KEEFE said he is concerned about Fort Peck, but he also cares about irrigated agriculture, stream flows, navigation, industry, and power production.

Vote: SJR 16 BE CONCURRED IN. Motion carried 17-1, with REP. O'KEEFE voting no.

#### EXECUTIVE ACTION ON SB 355

Motion: REP. KNOX MOVED SB 355 BE CONCURRED IN.

Discussion: CHAIRMAN RANEY said he didn't mind waiving fees, but inspections should continue.

Motion: CHAIRMAN RANEY moved to amend SB 355. EXHIBIT 5

Discussion: Mr. Sihler said the amendments will maintain the Department's ability to waive fees, but eliminates their ability to waive inspections.

REP. GILBERT asked if that affected small tanks only and what costs are involved. CHAIRMAN RANEY said it involves small tanks and won't cost anything because there are volunteers to do it.

Vote: Motion to amend SB 355 carried unanimously.

Motion/Vote: REP. KNOX MOVED SB 355 BE CONCURRED IN AS AMENDED. Motion failed on a tie vote, 9-9. EXHIBIT 6

Motion/Vote: CHAIRMAN RANEY MOVED THAT SB 355 BE TABLED. Motion carried unanimously.

**EXECUTIVE ACTION ON SB 407**

**Motion:** REP. O'KEEFE moved SB 407 be amended.

**Discussion:** REP. O'KEEFE said Mountain Water Co. proposed the amendment to create an even ground for private and public water companies. EXHIBIT 7

REP. FOSTER said this works against rate stability. He opposed implementing the fee without first holding a hearing. The fee set by law would be reflected in the rates.

REP. COHEN said it was his understanding that SB 407 does not require a hearing for the publicly owned utilities, only for privately owned ones. Publicly owned utilities also should be required to hold a hearing.

REP. FOSTER agreed that there should be no difference.

REP. NELSON said more than an issue of fairness is involved. It is a business decision. If Mountain Water has 50 hookups, the company has to come up with a \$2 fee per hookup. That amounts to \$100,000. The company would probably have to borrow the money on a short-term note at the bank. The issue is the cost of interest. REP. FOSTER said that is a good point and that is why interim rate increases are needed.

**Vote:** Motion to amend SB 407 carried 14-4, with REPS. KNOX, FOSTER, GILBERT and BARNHART voting no.

**Motion:** REP. O'KEEFE MOVED SB 407 BE CONCURRED IN AS AMENDED.

**Motion:** REP. FAGG moved to further amend SB 407.

**Discussion:** REP. FAGG said that on Page 10, Lines 22-24 make the minimum fee \$200, instead of \$100, and cap it at \$15,000 because several large communities pay for it, but will get no benefits. The result will be fewer dollars for the Department of Health and Environmental Sciences (DHES), but the people who are getting the benefits should be the ones to pay.

REP. FOSTER said a minimum fee of \$200 concerns him. Some communities can't afford the \$200. He suggested the \$100 rate be continued.

REP. FAGG agreed to change his amendment to keep the fee at \$100, with a maximum fee of \$15,000.

REP. REAM asked what the fiscal impact would be. Dan Fraser, DHES, referred to EXHIBIT 8. He said the fiscal impact would be approximately \$61,000.



REP. O'KEEFE asked if it would cost \$100 if a person had a single water hookup and one well. REP. FOSTER said there would be a minimum fee of \$100.

REP. MEASURE asked how much a bar with its own well pays. REP. FOSTER said zero.

REP. GILBERT asked what they get for \$100. REP. FOSTER said that if contamination occurs, DHES calls or visits the site. They also get annual inspections.

CHAIRMAN RANEY said the residents of Billings pay only 33 cents. Something needs to be done about the minimum charge of \$100.

Motion: REP. MEASURE MADE A SUBSTITUTE MOTION TO AMEND THE MINIMUM FEE TO \$20 AND FOR THERE TO BE A MAXIMUM FEE OF \$15,000.

Discussion: REP. O'KEEFE said that with that amendment, the state would lose \$170,000. REP. GILBERT said only \$16,000 would be lost. A fee of \$100 is unfair, but \$20 is OK.

The committee agreed unanimously to appoint a subcommittee. REPS. REAM, FAGG and O'KEEFE agreed to work on the bill to solve the fee issue and its fiscal impact.

EXECUTIVE ACTION ON SB 114

Motion: REP. MEASURE MOVED TO RECONSIDER ACTION ON SB 114 AND THAT SB 114 BE TAKEN OFF THE TABLE.

Discussion: REP. MEASURE said his major concern was the effect SB 114 would have on the individuals and what kind of constitutional provisions were added. The U.S. Supreme Court ruled in a West Virginia case that this type of procedure was OK.

Vote: Motion to take SB 114 off the table and reconsider action carried 9-8. EXHIBIT 9

Motion: REP. COHEN MOVED SB 114 NOT BE CONCURRED IN.

Discussion: REP. COHEN said that a vote of the people is not the way to go about siting a landfill.

CHAIRMAN RANEY said the location of a landfill has to be determined under provisions of the Megalandfill Siting Act. After sites are proposed, the people have the choice.

REP. COHEN said Montana will someday have landfills large enough to fall within the definition of megalandfill. He asked what the state would do when the proper site is found and the people vote no. He urged the committee to table the bill.

REP. REAM said the referendum can occur before the siting process. He doesn't have problems with the bill.

Vote: SB 114 NOT BE CONCURRED IN. Motion carried 10-8. EXHIBIT 10

Motion/Vote: REP. COHEN MOVED SB 114 BE TABLED. Motion carried 17-1, with REP. MEASURE voting no.

ADJOURNMENT

Adjournment: 1:20 p.m.



REP. BOB RANEY, Chairman



LISA FAIRMAN, Secretary

BR/lf

**HOUSE OF REPRESENTATIVES**  
**NATURAL RESOURCES COMMITTEE**

**ROLL CALL**

**DATE** 4-2-91

NAME	PRESENT	ABSENT	EXCUSED
REP. MARK O'KEEFE, VICE-CHAIRMAN	✓		
REP. BOB GILBERT	✓		
REP. BEN COHEN	✓		
REP. ORVAL ELLISON	✓		
REP. BOB REAM	✓		
REP. TOM NELSON	✓		
REP. VIVIAN BROOKE	✓		
REP. BEVERLY BARNHART	✓		
REP. ED DOLEZAL	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. DAVID HOFFMAN	✓		
REP. DICK KNOX	✓		
REP. BRUCE MEASURE	✓		
REP. JIM SOUTHWORTH	✓		
REP. HOWARD TOOLE	✓		
REP. DAVE WANZENRIED	✓		
REP. BOB RANEY, CHAIRMAN	✓		

HOUSE STANDING COMMITTEE REPORT

10:45  
4-3-91  
JDB

April 2, 1991

Page 1 of 3

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 189 (third reading copy -- blue) be concurred in as amended.

Signed: Bob Raney, Chairman

Carried by: Rep. Gilbert

And, that such amendments read:

1. Title, line 10.  
Following: "7-7-4402,"  
Insert: "7-7-4426,"  
Following: "7-13-215,"  
Insert: "7-13-231,"

2. Title, line 11.  
Following: "SECTIONS"  
Insert: "7-13-211,"

3. Page 7, line 6.  
page 8, line 4  
Strike: "15"  
Insert: "21"

4. Page 8, line 7.  
Strike: "be insufficient"  
Insert: "have no factual or legal basis"

5. Page 12.  
Following: line 16  
Insert: "(2) The commissioners may issue a revenue bond only if the sale of the bond has been approved in a general or special election by a majority of the registered voters in the jurisdictions to be directly served by the solid waste district."  
Renummer: subsequent subsections

6. Page 16.

Following: line 13

Insert: "(2) A joint district may issue a revenue bond only if the sale of the bond has been approved in a general or special election by a majority of the registered voters in the jurisdictions to be directly served by the joint district."

Renumber: subsequent subsections

7. Page 16, line 15.

Strike: "without an election and"

8. Page 19.

Following: line 4

Insert:

"Section 29. Section 7-7-4426, MCA, is amended to read:

"7-7-4426. Authorization for undertaking and issuance of bonds. (1) The acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of any undertaking may be authorized under this part.

(2) Bonds may be authorized to be issued under this part by resolution or resolutions of the governing body of the municipality:

(a) without an election, except joint solid waste district and county solid waste bonds; or

(b) when authorized by a majority of the qualified electors voting upon such question at a special election, should the governing body in its sole discretion choose to submit the question to the electorate."

Section 30. Section 7-13-231, MCA, is amended to read:

"7-13-231. Authorization for charges for services. (1) To defray the cost of maintenance and operation of said refuse disposal district, the board shall establish a fee for service, with approval of the county commissioners, provided a public hearing has been held if written protest has been made ~~as provided in 7-13-211~~. An increase in fees may not be approved and implemented unless notice of such increase is given as provided in 7-13-208(1) and (2) and opportunity for protest is allowed as provided in 7-13-209 ~~and 7-13-211~~.

(2) This fee shall be assessed to all units in the district that are receiving a service, for the purpose of maintenance and operation of said district."

Renumber: subsequent sections

9. Page 19, line 5.

Following: "Sections"

Insert: "7-13-211"

10. Page 19.

Following: line 21

Insert:

"NEW SECTION. Section 34. Coordination instruction. If House Bill No. 296 is passed and approved and if it includes a

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section that amends 7-5-2306, then [section 1 of this act],  
amending 7-5-2306, is void."

Renumber: subsequent sections

4-2-91  
TDD

HOUSE STANDING COMMITTEE REPORT

April 2, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report  
that Senate Bill 253 (third reading copy -- blue) be concurred  
in.

Signed: Bob Raney  
Bob Raney, Chairman

Carried by: Rep. Knox

HOUSE STANDING COMMITTEE REPORT

April 2, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report  
that Senate Bill 303 (third reading copy -- blue) be concurred  
in .

Signed: Bob Raney  
Bob Raney, Chairman

Carried by: Rep. Gilbert



HOUSE STANDING COMMITTEE REPORT

April 2, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report  
that Senate Bill 377 (third reading copy -- blue) he concurred  
in .

Signed: Bob Raney  
Bob Raney, Chairman

Carried by: Rep. Grady

HOUSE STANDING COMMITTEE REPORT

April 2, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report  
that Senate Bill 386 (third reading copy -- blue) be concurred  
in.

Signed: Bob Raney  
Bob Raney, Chairman

Carried by: Rep. Knox

HOUSE STANDING COMMITTEE REPORT

4:20  
4-2-91  
JDR

April 2, 1991

Page 1 of 3

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 434 (third reading copy -- blue) be concurred in as amended .

Signed: Bob Raney, Chairman

Carried by: Rep. O'Keefe

And, that such amendments read:

1. Title, line 6.

Following: "APPROPRIATIONS"

Insert: ", EXCEPT APPROPRIATIONS FOR GROUND WATER"

2. Title, line 9.

Following: "BASIN;"

Insert: "REQUIRING AN APPLICANT FOR A GROUND WATER PERMIT TO  
SUBMIT A REPORT REGARDING THE SOURCE OF THE GROUND WATER AND  
DEPARTMENT FINDINGS REGARDING THE SOURCE;"

3. Page 1, line 16.

Strike: "3"

Insert: "4"

4. Page 1, line 20.

Following: line 19

Insert: "(2) "Domestic use" means use of water common to family homes, including use for culinary purposes, washing, drinking water for humans and domestic pets, and irrigation of a lawn or garden of less than 1 acre, not to exceed a total of 3.5 acre-feet per year. The term includes municipal uses for expanded domestic use but does not include commercial or industrial use.

(3) "Ground water" means any water that is beneath the land surface or beneath the bed of a stream, lake, reservoir, or other body of surface water and that is not a part of that surface water."

Renumber: subsequent subsection

5. Page 2, line 8.

Strike: "DECEMBER 31, 1994"

Insert: "June 30, 1995"

6. Page 2, line 9.  
Following: "apply to"  
Insert: "(a)"

7. Page 2, line 11.  
Following: "use"  
Insert: "or water for domestic use; and  
(b) an application for a permit to appropriate water to conduct response actions or remedial actions pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, or Title 75, chapter 10, part 7"

8. Page 2, line 21.  
Strike: "SURFACE"  
Following: "water"  
Insert: ", except ground water,"

9. Page 2, line 24.  
Following: line 23  
Insert: "NEW SECTION. Section 3. Ground water permit applications -- report required. (1) During the period of basin closure provided in [section 2(1)], an applicant for a ground water permit in the Upper Clark Fork River basin shall submit a report prepared by a professional engineer or hydrologist verifying that the source of the ground water is not a part of or substantially or directly connected to surface water. If the applicant fails to submit the report required in this section, the application is considered defective and must be processed pursuant to 85-2-302.  
(2) In addition to the criteria of 85-2-311, the department shall find, based on substantial credible evidence, that the source of the ground water is not a part of or substantially or directly connected to surface water."  
Renumber: subsequent sections

10. Page 4, line 1.  
Strike: "and"

11. Page 4, line 4.  
Following: "basin"  
Insert: "; and  
(e) include the Blackfoot River, designated as subbasin 76F, and Rock Creek, designated as subbasin 76E, in any considerations made under subsections (2) (a) through (2) (d)"

12. Page 4, line 6.

Strike: "progress report"

Insert: "management plan"

13. Page 4, lines 9 and 12.

Strike: "3"

Insert: "4"

HOUSE STANDING COMMITTEE REPORT

April 2, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report  
that Senate Joint Resolution 16 (third reading copy -- blue)  
be concurred in .

Signed: \_\_\_\_\_  
Bob Raney, Chairman

Carried by: Rep. Southworth

## Senate Bill 189

### Comments Related to Proposed Amendments

1. Section 8- Proposed amendment to increase protest period to 60 days - The purpose of this section, as drafted, was to eliminate a conflict in the current law, not to change the protest period. Changing the protest period to 60 days does not eliminate the conflict.

The conflict in current law is caused by the current refuse disposal district law providing that any property owner can protest within 30 days of the notice in 7-13-209, and the requirement that the notice provision follow the general law on local government notice 7-1-2121. **The general law requires that the notice be published no more than 21 days prior to the action and no less than 3 days before the action.** Providing 60 days notice takes you even further from the 21 day maximum under 7-1-2121. If the reference to the general law on notice is left in 7-13-208, the period between notice and action must be 21 days or less.

#### Options:

- a. Make the protest period 21 days under 7-13-209.
- b. Eliminate the reference to the general law on notice and publication (7-1-2121).

2. Section 9, page 8, line 7 - The proposed amendment would strike insufficient and replace with the words "have no factual or legal basis". The amendment would change the determination on whether the district can be created from the number of affected parties protesting to the legal and factual reasons for the protest. The word "sufficient" has specific meaning; protest of 50% of the property owners. Sufficient protest is defined in 7-13-211. If the basis of determining the adequacy of protest is to be changed, 7-13-211 should be revised to provide direction in determining "factual or legal basis."

3. Proposed amendments to Sections 14 and 24, that would require a referendum to issue revenue bonds. Revenue bonds do not generally require voter approval because they are backed only by a pledge of the revenue to be generated by the utility or enterprise and a limited tax pledge. Voter approval is required for general obligation bonds that pledge the full faith and taxing power of the entity issuing the bonds.

This requirement would make the issuance of bonds more time consuming because an election would be required. An election procedure may need to be provided for in the bill. If a referendum is required Section 14, may not be necessary as Counties already have authority to issue general obligation bonds.


Amendments to Senate Bill No. 303  
Third Reading Copy

For the Committee on Natural Resources

March 19, 1991

1. Page 4, line 22.  
Following: "WILL"  
Strike: "ADVERSELY AFFECT"
2. Page 4, line 23.  
Following: "(A)"  
Insert: "adversely affect"
3. Page 5, line 1.  
Following: "(B)"  
Insert: "cause substantial harm to"
4. Page 5, line 3.  
Following: "."  
Insert: "For purposes of this subsection (b), substantial harm means at least a documented 10% increase in annual capital and operating costs for wastewater treatment."
5. Page 10, lines 9 and 10.  
Following: "WILL" on line 9  
Strike: "ADVERSELY AFFECT"
6. Page 10, line 11.  
Following: "(A)"  
Insert: "adversely affect"
7. Page 10, line 13.  
Following: "UNUSABLE"  
Strike: "FOR ITS PRIOR USE"
8. Page 10, line 14.  
Following: "(B)"  
Insert: "cause substantial harm to"
9. Page 10, line 16.  
Following: "."  
Insert: "For purposes of this subsection (b), substantial harm means at least a documented 10% increase in annual capital and operating costs for wastewater treatment."
10. Page 17, lines 4 and 5.  
Following: "WILL" on line 4  
Strike: "ADVERSELY AFFECT"
11. Page 17, line 6.  
Following: "(A)"  
Insert: "adversely affect"



 DATE 4-2-91  
HB SB 434

Amendments to Senate Bill No. 434  
Third Reading Copy

Requested by Rep. Raney  
For the Committee on Natural Resources

Prepared by Gail Kuntz  
March 21, 1991

1. Page 2, line 9.  
Following: "apply to"  
Insert: ": (a)"

2. Page 2, line 11.  
Following: "~~use~~"  
Insert: "; and

(b) an application for a permit to appropriate water to conduct response actions or remedial actions pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, or Title 75, chapter 10, part 7"

Amendments to Senate Bill No. 434  
Third Reading (Blue) Copy

For the Committee on Natural Resources

Prepared by Doug Sternberg  
March 22, 1991

1. Title, line 6.

Following: "APPROPRIATIONS"

Insert: ", EXCEPT APPROPRIATIONS FOR GROUND WATER"

2. Title, line 9.

Following: "BASIN;"

Insert: "REQUIRING AN APPLICANT FOR A GROUND WATER PERMIT TO  
SUBMIT A REPORT REGARDING THE SOURCE OF THE GROUND WATER AND  
DEPARTMENT FINDINGS REGARDING THE SOURCE;"

3. Page 1, line 16.

Strike: "3"

Insert: "4"

4. Page 1, line 20.

Following: line 19

Insert: "(2) \"Domestic use\" means use of water common to family  
homes, including use for culinary purposes, washing,  
drinking water for humans and domestic pets, and irrigation  
of a lawn or garden of less than 1 acre, not to exceed a  
total of 3.5 acre-feet per year. The term includes municipal  
uses for expanded domestic use but does not include  
commercial or industrial use.

(3) \"Ground water\" means any water that is beneath the  
land surface or beneath the bed of a stream, lake,  
reservoir, or other body of surface water and that is not a  
part of that surface water."

Renumber: subsequent subsection

5. Page 2, line 8.

Strike: "DECEMBER 31, 1994"

Insert: "June 30, 1995"

6. Page 2, line 11.

Following: "~~use~~"

Insert: "or water for domestic use"

7. Page 2, line 21.

Strike: "SURFACE"

Following: "water"

Insert: ", except ground water,"

8. Page 2, line 24.

Following: line 23

Insert: "NEW SECTION. Section 3. Ground water permit  
applications -- report required. (1) During the period of  
basin closure provided in [section 2(1)], an applicant for a

ground water permit in the Upper Clark Fork River basin shall submit a report prepared by a professional engineer or hydrologist verifying that the source of the ground water is not a part of or substantially or directly connected to surface water. If the applicant fails to submit the report required in this section, the application is considered defective and must be processed pursuant to 85-2-302.

(2) In addition to the criteria of 85-2-311, the department shall find, based on substantial credible evidence, that the source of the ground water is not a part of or substantially or directly connected to surface water."

Renumber: subsequent sections

9. Page 4, line 1.

Strike: "and"

10. Page 4, line 4.

Following: "basin"

Insert: "; and

(e) include the Blackfoot River, designated as subbasin 76F, and Rock Creek, designated as subbasin 76E, in any considerations made under subsections (2)(a) through (2)(d)"

11. Page 4, line 6.

Strike: "progress report"

Insert: "management plan"

12. Page 4, lines 9 and 12.

Strike: "3"

Insert: "4"

Amendments to Senate Bill No. 355  
Third Reading Copy

Requested by Rep. Raney  
For the Committee on Natural Resources

Prepared by Paul Sihler  
March 23, 1991

1. Title, lines 4 through 6.  
Strike: "CLARIFYING" on line 4 through ";" on line 6
2. Title, line 7.  
Following: "WAIVE"  
Insert: "UNDERGROUND STORAGE TANK"
3. Title, line 8.  
Strike: "75-11-209,"  
Following: "75-11-213"  
Strike: ", "
4. Page 1, line 12 through page 2, line 1.  
Strike: section 1 in its entirety  
Renumber: subsequent sections
5. Page 4, lines 2 and 3.  
Strike: "unless" on line 2 through "department" on line 3

EXHIBIT ✓  
DATE 4-2-91  
~~HB~~ SB 355

HOUSE OF REPRESENTATIVES  
NATURAL RESOURCES COMMITTEE

ROLL CALL VOTE

DATE 4-2-91 BILL NO. SB 355 NUMBER 1

MOTION: Be concurred in as amended

NAME	AYE	NO
REP. MARK O'KEEFE, VICE-CHAIRMAN	✓	
REP. BOB GILBERT		✓
REP. BEN COHEN		✓
REP. ORVAL ELLISON	✓	
REP. BOB REAM		✓
REP. TOM NELSON		✓
REP. VIVIAN BROOKE	✓	
REP. BEVERLY BARNHART		✓
REP. ED DOLEZAL	✓	
REP. RUSSELL FAGG	✓	
REP. MIKE FOSTER	✓	
REP. DAVID HOFFMAN	✓	
REP. DICK KNOX	✓	
REP. BRUCE MEASURE		✓
REP. JIM SOUTHWORTH		✓
REP. HOWARD TOOLE		✓
REP. DAVE WANZENRIED		✓
REP. BOB RANEY, CHAIRMAN	✓	
TOTAL	9	9

Motion failed  
Bill later tabled

705, 3000  
Proposed Amendments  
to  
Senate Bill 407  
Third Reading Copy

by  
Mountain Water Company

House Natural Resources Committee  
April 1, 1991

1. Page 1, line 24, following "HEARING;":

INSERT: "REQUIRING THE PUBLIC SERVICE COMMISSION TO APPROVE AN INCREASE IN A TARIFF FILED BY A PRIVATELY-OWNED PUBLIC WATER SYSTEM TO RECOVER THE COSTS ASSOCIATED WITH THE FEE ASSESSMENT;"

1. Page 11, line 3, following "69-7-111.":

INSERT: "THE PUBLIC SERVICE COMMISSION SHALL, WITHOUT HEARING AND WITHIN 30 DAYS OF THE ASSESSMENT OF A FEE BY THE DEPARTMENT UNDER THIS SECTION, APPROVE TARIFF CHANGES FOR A PRIVATELY-OWNED PUBLIC WATER SYSTEM IN AN AMOUNT WHICH WILL ALLOW THE OWNER TO FULLY RECOVER COSTS ASSOCIATED WITH THE FEES PRESCRIBED UNDER THIS SECTION."

# SB 407 PROPOSAL

Min. Fee (\$100/PWS)

POPULATION	NO. PWS	NO. S.C.	\$/S.C./YR RANGE	TOTAL
>50	205	3,376	6.00 - 10.00	20,500
50 - 99	176	4,479	3.00 - 6.00	17,600
100 - 149	77	2,878	2.00 - 3.00	7,700
150 - 7,499	247	66,848	2.00	133,696
7,500 - 11,250	5	16,162	2.00	32,324
>11,250	6	83,663	2.00	167,326
	716	177,406		379,146
NON-COMMUNITY PWS	1,377	NA	100 MIN.	137,700
				516,846

# SB 407 PROPOSAL WITH CAP. @ 7,500

Min. Fee (\$100/PWS)

POPULATION	NO. PWS	NO. S.C.	\$/S.C./YR RANGE	TOTAL
>50	205	3,376	6.00 - 10.00	20,500
50 - 99	176	4,479	3.00 - 6.00	17,600
100 - 149	77	2,878	2.00 - 3.00	7,700
150 - 7,499	247	66,848	2.00	133,696
7,500 - 11,250	5	16,162	2.00	32,324
>11,250	6	83,663	.33 - 1.00	45,000
	716	177,406		256,820

NON-COMMUNITY  
PWS

1,377	NA	100 MIN.	137,700
			394,520
			(-122,326)

Exhibit 8  
4-2-91  
SB 407



EXHIBIT 7  
DATE 4-2-91  
~~HB~~ SB 114

HOUSE OF REPRESENTATIVES  
NATURAL RESOURCES COMMITTEE

ROLL CALL VOTE

DATE 4-2-91 BILL NO. SB 114 NUMBER 1

MOTION: to remove from table and reconsider actions

NAME	AYE	NO
REP. MARK O'KEEFE, VICE-CHAIRMAN	✓	
REP. BOB GILBERT		✓
REP. BEN COHEN		✓
REP. ORVAL ELLISON		✓
REP. BOB REAM	✓	
REP. TOM NELSON		✓
REP. VIVIAN BROOKE	✓	
REP. BEVERLY BARNHART	✓	
REP. ED DOLEZAL	✓	
REP. RUSSELL FAGG		✓
REP. MIKE FOSTER		✓
REP. DAVID HOFFMAN		✓
REP. DICK KNOX		✓
REP. BRUCE MEASURE	Abstained	
REP. JIM SOUTHWORTH	✓	
REP. HOWARD TOOLE	✓	
REP. DAVE WANZENRIED	✓	
REP. BOB RANEY, CHAIRMAN	✓	
TOTAL	9	8

*motion carried*

EXHIBIT 10  
DATE 4-2-91  
~~HB~~ SB 114

HOUSE OF REPRESENTATIVES  
NATURAL RESOURCES COMMITTEE

ROLL CALL VOTE

DATE 4-2-91 BILL NO. SB 114 NUMBER 2

MOTION: Be not concurred in

NAME	AYE	NO
REP. MARK O'KEEFE, VICE-CHAIRMAN		✓
REP. BOB GILBERT	✓	
REP. BEN COHEN	✓	
REP. ORVAL ELLISON	✓	
REP. BOB REAM		✓
REP. TOM NELSON	✓	
REP. VIVIAN BROOKE		✓
REP. BEVERLY BARNHART		✓
REP. ED DOLEZAL		✓
REP. RUSSELL FAGG	✓	
REP. MIKE FOSTER	✓	
REP. DAVID HOFFMAN	✓	
REP. DICK KNOX	✓	
REP. BRUCE MEASURE	✓	
REP. JIM SOUTHWORTH		✓
REP. HOWARD TOOLE		✓
REP. DAVE WANZENRIED	✓	
REP. BOB RANEY, CHAIRMAN		✓
TOTAL	10	8

motion carried  
SB 114 later tabled