

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION COMMITTEE ON NATURAL RESOURCES

Call to Order: By Senator Stimatz, on February 20, 1991, at 3:00 p.m.

ROLL CALL

Members Present:

Lawrence Stimatz, Chairman (D)
Cecil Weeding, Vice Chairman (D)
John Jr. Anderson (R)
Esther Bengtson (D)
Don Bianchi (D)
Steve Doherty (D)
Lorents Grosfield (R)
Bob Hockett (D)
Thomas Keating (R)
John Jr. Kennedy (D)
Larry Tveit (R)

Members Excused: None

Staff Present: Michael Kakuk (EQC).

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

Announcements/Discussion: None.

HEARING ON SENATE BILL 400

Presentation and Opening Statement by Sponsor:

Senator Fred Van Valkenburg, District 30, said Senate Bill 400 is an attempt to establish strict liability for individuals dumping solid waste on someone else's property. He stated that, very often, when these matters are discovered and investigated, the person identified as the dumper of the solid waste will disclaim any knowledge of the situation. Senator Van Valkenburg further stated that people have to take greater responsibility for their waste products and that there are some instances where the ability to impose fines is significant. He commented on the burden of proof in a legal action, and said that, in some ways,

SB 400 is more of a judiciary bill. Senator Van Valkenburg explained that, under strict liability, a person cannot be put in jail, but can be subject to a fine.

Proponents' Testimony:

Dave Wall, Deputy Sheriff, Missoula County, said he is responsible for ground control and covers rural areas of the county most of the time. He stated that with the increased cost of landfills, people are dumping on private, BLM (Bureau of Land Management), and forest service lands, as well as creeks. Mr. Wall explained that SB 400 provides a peace officer with the ability to find the "culprits," and write them a citation to see a judge without having to file with the county attorney or the sheriff's detective division for insufficient evidence.

Manx Skillicorn, Manager of Security, Champion International, said Champion owns about 900,000 acres in the state, most of which are open to the public and are roaded. He explained that his duties involve investigation of dumpings and providing information to law enforcement. Mr. Skillicorn stated that he would like to see the burden of proof put on the individual that dumped the garbage, rather than on law enforcement.

Mr. Skillicorn provided photographs for the Committee to review.

Opponents' Testimony:

There were no opponents of SB 400.

Questions From Committee Members:

Senator Hockett asked what the difference is between common trash and hazardous waste, and said he has a problem with burning in large coulees where chemical barrels are dumped. Senator Van Valkenburg replied that the definition of solid waste would apply unless the Committee decided to limit the application to something other than what is in the 75-10-203, MCA, subsection (10).

Senator Keating asked about part (d) at the bottom of page 1 and the top of page 2, and what happens to a property owner who allows hunting or fishing and is left with the entrails of animals or fish. Senator Van Valkenburg replied that he did not think the owner would be consenting to a hunter leaving entrails or a carcass. He stated that new language in the bill refers to dead animals as solid waste, and that he didn't believe anyone would be prosecuted for throwing fish entrails in bushes. He further stated that it doesn't necessarily mean the owner is not going to waive liability if an enforcement officer comes along and says that isn't supposed to be done. Senator Van Valkenburg advised the Committee that he hoped no one would raise that as a technicality.

Senator Weeding commented that, at one time, the remedy was to require that the person doing the dumping come back and pick the stuff up. He asked if this is still the case. Senator Van Valkenburg replied he did not know the answer, but would find out.

Senator Tveit commented that similar legislation was before the Committee in 1987, dealing with strewing of garbage along highways.

Closing by Sponsor:

Senator Van Valkenburg thanked the Committee and said he realized that the \$1000 per day penalty is very stringent. He commented that there will be very rare circumstances where this penalty might be imposed and said it is much more likely that \$100 civil penalties will be assessed. He explained that people who are dumping refrigerators and couches in coulees because they don't want to spend \$5 or \$10 to at the solid waste disposal site, ought to have the burden of proof put on them.

EXECUTIVE ACTION ON SENATE BILL 400

Motion:

Senator Kennedy made a motion that Senate Bill 400 DO PASS.

Discussion:

Senator Tveit asked Senator Hockett to elaborate on his earlier comment concerning dumping in coulees. Senator Hockett replied that this applies to everything that is dumped on one's land at anytime and said people may need to fence off their land.

Amendments, Discussion, and Votes:

There were none.

Recommendation and Vote:

The motion made by Senator Kennedy carried unanimously.

HEARING ON SENATE BILL 268

Presentation and Opening Statement by Sponsor:

Senator Paul Svrcek, District 26, said Senate Bill 268 attempts to set up a system to provide preference for recycled materials and for the state to purchase such materials. He explained that he had planned an exhibit, but the builder (with whom he had been working on the bill) had other commitments and could not be present. Senator Svrcek advised the Committee that he did not sign the fiscal note because he believes it is narrowly

construed.

Senator Svrcek stated that recycled paper is fairly common and the state has a program to use it which ought to be not only continued, but "beefed up". He advised the Committee that pressboard is being made from straw and wallboard is made from limestone used to clean coal-fired stacks. He further advised that slag can be safely used to create other building materials.

Senator Svrcek explained that this builder is constructing a "spec" home in a Missoula subdivision which will be constructed largely of recycled materials. He said the high-quality carpeting is made from recycled plastic pop bottles, and that the tile is made from recycled tires.

Senator Svrcek further advised the Committee that he has attempted this legislation in the past and said SB 268 is a fairly standard preference bill at 15 percent (page 3, line 16). He said he originally put the preference at 5 percent, but changed it on the advise of the Department of Administration (DOA), who administers state recycling efforts. Senator Svrcek said DOA convinced him that 5 percent would not generate necessary activity.

Senator Svrcek further stated that recycling and reusing materials, as well as finding uses for Montana's secondary materials, will provide a wealth of opportunity to the state of Montana. He said it may serve to create new industries and new jobs and could eventually lead to long term economic stability,

Proponents' Testimony:

Dan James, Energy Division Administrator, Department of Natural Resources (DNRC), provided amendments (Exhibit #1). He said amendment #1 strikes "conservation" and inserts "the procurement" on page 2, line 1, as procurement more accurately describes what the rest of the bill does. He explained that the majority of the actions required in this bill relate to purchasing procedures for the state. Mr. James further stated that amendments #2 and #3 are more technical in nature. He said Senator Svrcek indicated his intent was to also have public agencies work at using recycled materials and that to eliminate any discriminatory elements in bidding procedures, "state" was stricken and "public" was inserted.

Mr. James further advised the Committee that amendments #4 and #6 are very similar, as they both relate to rule-making sections, whereby DOA is instructed to work in conjunction with DNRC and the Department of Health and Environmental Sciences (DHES) in drafting rules to implement this bill. He explained that these departments are presently operating the Governors' pilot recycling program and said amendment #5 adds a paper conservation measure. Mr. James told the Committee this language is from House Bill 160 and says that electronic transfer computer

communications are a very effective means of cutting down on the amount of paper state government uses in it's day-to-day operations.

Mr. James further stated that, in general, DNRC recognizes that sufficient benefits are derived, not only with respect to stretching our natural resources but also with energy conservation.

Bruce McCandless, City of Billings, said he supported the policy statements made in SB 268. He stated that the Billings City Council encourages recycling programs and that many City offices are recycling materials and purchasing recycled materials. Mr. McCandless further stated that the City will shortly adopt a program to use recycled materials for city water. (Exhibit #2).

Harley Warner, Montana Association of Churches, said SB 268 should be passed whether it is amended or not. He stated that the Association supports recycling of post-industrial and post-consumer waste, as well as policies and programs to increase the demand for these secondary materials.

Linda Lee, Montana Audubon Legislative Fund, submitted written testimony. (Exhibit #3).

Ron Castleman, Montana League of Cities and Towns, said he supports SB 268, but has some of the same concerns expressed by Mr. McCandless. He asked the Committee to consider the proposed amendments, and said Section 2, providing preference with a 15 percent margin, could cost money that isn't available in municipal governments. Mr. Castleman stated that there is a lot of interest in recycling among the cities and towns. He said the intent of the bill is good.

Opponents' Testimony:

There were no opponents of SB 268.

Questions From Committee Members:

Senator Keating referred to the comment made by the City of Billings that this is a great idea in the cities and towns and municipalities, but don't make it apply to them. He asked if the bill is necessary if people are already purchasing recycled materials. Senator Svrcek replied that if the Legislature thinks it is a good idea for state agencies, then there is every reason to go ahead and do this, but forcing local governments to recycle preempts their legislative authority. Bruce McCandless replied that Billings is purchasing some recycled materials - primarily paper, as it is the most readily available. He said the cost is higher, but the City is selling a lot of used paper and is using these funds to purchase recycled materials.

Senator Keating asked Harley Warner to provide examples of where

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natural resources are being wasted. Mr. Warner replied that waste occurs when natural resource materials are not recycled for the manufacturing process. He said most manufacturing processes use some non-renewable resources, such as styrofoam cups, and that this can contribute to environmental problems. Mr. Warner further stated that he believed Senator Keating would find in his research that manufacture from virgin materials actually uses more energy than recycling former materials.

Senator Hockett asked what kinds of recycled materials would be included in bids. Senator Svrcek reiterated that his intent was that recycled materials be construed very broadly, so that some of the new construction techniques could be included. He commented that paper is becoming a very narrow part of the broad spectrum.

Senator Weeding commented that the Statement of Intent seems demanding in view of the 15 percent preference. He asked Senator Svrcek if he would object to taking the mandatory language out of Section 2 and leaving permissive movement in the rule-making area so there is some ability to assess things as bills pass. Senator Svrcek replied he believes it is important that the state sets definite policy in this area and that there needs to be in concert with private industry. Senator Svrcek stated he is sympathetic to the issues raised by the League of Cities and Towns and the City of Billings, but also understands that this is a new program. He advised Senator Weeding that if the bill is made entirely permissive, he believed state agencies would largely ignore it, negating the effect of the bill.

Senator Svrcek further advised the Committee that he is open to amendments that would narrow the scope of the bill and said his goal is to get this into place.

Senator Weeding asked if the recycled paper used by the Legislature does cost 15 percent more than new paper off the presses. Senator Svrcek replied that DOA said the cost increase is closer to five to eight percent.

Senator Weeding said he did not believe that figure is correct. Senator Keating stated that he had the same concern.

Senator Grosfield asked Senator Svrcek if he supported the proposed amendments and how more complex bids, such as for construction, would be handled. Senator Svrcek replied that much of this would be taken care of by rule-making authority, and that he anticipates that the Department would look at the materials in the bid, to determine whether or not recyclable materials are used.

Senator Grosfield wondered what the results would be if DOA reported paying 14.99% over the price of non-recycled paper. Senator Svrcek replied he did not think their preference works the same as that proposed in SB 268. He stated there must still

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be competition within certain perimeters and that this is a policy issue. He suggested that preference could be phased-out over a period of years to give the industry a start-up.

Senator Bengtson said she was concerned with Senator Svrcek's opening statements about presswood made from straw and other innovative things made from recycled materials. She commented that many of these items have not been tested and said she wondered if this legislation would put the state and/or public entities into the position of being a testing ground for some of these recycled materials. She questioned if this would slow down the process and what liability there might be. Senator Svrcek replied that a lot of it has been tested and asked Tom Livers, DNRC, to respond.

Tom Livers stated that it is unfortunate that Missoula builder Steve Wilson was not able to present some of these products for committee review. He said there are innovative products coming which have been tested and that those referred to by Senator Svrcek have been tested. Mr. Livers explained that Steve Wilson appears to have been the first person in this country to gather these tested products into one place. He explained that people have tried carpeting made from recycled pop bottles and milk jugs.

Senator Bianchi said he was not sure of the numbers in proposed amendment #5 concerning public and state agencies. Senator Svrcek replied that it is up to the Committee to make this decision.

Closing by Sponsor:

Senator Svrcek stated there was good discussion of the bill. He said the most important thing to him is to get started in some way and that he would be open to committee amendments. Senator Svrcek stated that the bill has tremendous potential to broaden the use of Montana's raw materials and that the state ought to set an example and work in concert with private business try create a niche for those industries that are just getting started.

HEARING ON SENATE BILL 355

Presentation and Opening Statement by Sponsor:

Senator Tom Beck, District 24, said Senate Bill #355 clarifies the inspection of underground storage tanks, as well as installations and enclosures that are not really necessary. He explained that the bill was requested by DHES and addresses some of the 1,100 small underground storage tanks in isolated areas which will not require intensive inspection and a license to remove or reinstall. Senator Beck asked that John Geach, DHES, explain the bill further.

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Proponents' Testimony:

John Geach, Underground Storage Tank Manager, Solid Hazardous Waste Bureau, DHES, said 75-11-209, MCA, requires that a permit be issued for each person removing or installing an underground storage tank. He further stated that 75-11-217, MCA, exempts farm owners from having a license to install residential heating oil tanks, but does not exempt them from the inspection requirement. (Exhibit #4).

Mr. Geach stated that soil samples are required for all closures, enabling the Department to adequately review them. He said the Department would like provide some of these small tank owners with a little more service for their \$20 annual registration fee. He offered Department amendments (last page of Exhibit #4), and said there are 933 large heating oil tanks registered with the program now of which 19 are located in schools and are leaking in those schools.

Opponents' Testimony:

Chris Kaufman, Montana Environmental Information Center, said she opposed allowing DHES to waive fees and/or the requirement of installation enclosure inspection. She advised the Committee that proper installation is a very critical time in the life of an underground storage tank as was evidenced by problems at the Church Universal and Triumphant (CUT) Ranch. Ms. Kaufman stated closures aren't quite as critical and commented that she was not quite sure why the department wants to cut back on services they offer. She urged the Committee not to support this bill.

Questions From Committee Members:

Senator Hockett asked if SB 355 would speed up the removal of these small tanks and get them out of the way with a minimal cost to the state. John Geach replied that it will alleviate inconveniences to tank owners and save some money. He said the installations are very critical and that the Department would provide records for doing that type of work, but would like to waive the fees.

Senator Weeding asked John Geach if there will be quite a bit of flexibility in the rural areas where there is no water threat and if there would be rule-making authority. Mr. Geach replied that rule-making authority is rather confined by current statute and that the bill would provide the options discussed earlier.

Senator Tveit asked what happens in instances where there are high water tables and if inspectors are needed if there is an interested party and samples are taken out of tanks. John Geach replied that would be correct and said the Department cannot free staff inspectors to cover the whole state.

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Senator Tveit asked what it would cost to have inspectors in attendance for the period of time it takes to dig up three tanks. John Geach replied that the rules require the Department to return 80% of the fees collected to the local inspector to pay for his time. He said the Department has indicated that it will pay local inspectors at a flat rate of \$25/hour which includes their travel and overhead expenses, or a minimum of four hours. Mr. Geach further advised the Committee that the minimum right now is \$30/hour if one uses a local inspector and \$40/hour for a state inspector. He said this would be a minimum \$120 to \$150 per inspection, using current fees.

Senator Grosfield asked about the exemption for non-commercial purposes. John Geach replied that non-commercial comes right out of the definition EPA uses in its regulations and means anything not for retail sale.

Senator Bianchi asked Senator Beck if soil samples would be taken at each tank removal site and said he did not see that in the bill. John Geach replied that would be the case.

Closing by Sponsor:

Senator Beck said SB 355 would alleviate some of the concerns expressed during the hearing and that he did not believe there would be many installations of underground storage tanks in the future. He told the Committee that, in the future, there will be legislation requiring that underground storage tanks be brought back to the surface. He asked the Committee to give the bill favorable consideration.

HEARING ON SENATE BILL 357

Presentation and Opening Statement by Sponsor:

Senator Tom Beck, District 24, said Senate Bill 357 is a simple bill asking that local governments be consulted when the Solid Waste Bureau and Solid Waste Management System of DHES decide where solid waste systems will be located.

Proponents' Testimony:

Gordon Morris, Executive Director, Montana Association of Counties (MACO), said SB 357 was originally adopted by the Counties as a resolution and was drafted at their request. He explained that new language on page 2, lines 14-17 were intended to read "when the Department is considering the licensing application of a solid waste system, the local governments ought to be notified and involved and given every opportunity to have input in the ultimate and final siting decision of the facility." He asked the Committee to support the bill.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Kennedy asked what consult means. Tony Grover, Solid Waste Program Manager, DHES, replied that right now the Department must only notify the county health officer of the pending solid waste licensing situation.

Senator Weeding asked what is considered to be local government and said he wondered about conservation districts. Mr. Grover replied the bill specifically addresses counties where a facility is located, and not conservation districts as they are not in the picture. He commented that municipalities would not be ruled out.

Closing by Sponsor:

Senator Beck told the Committee that the location of solid waste landfill dumps can affect many things in a community and that there should be cooperation with counties or municipalities. He asked the Committee to support the bill.

EXECUTIVE ACTION ON SB 357

Motion:

Senator Bianchi made a motion that Senate Bill 357 DO PASS.

Discussion:

There was no discussion.

Amendments, Discussion, and Votes:

There were no amendments.

Recommendation and Vote:

The motion made by Senator Bianchi carried unanimously.

EXECUTIVE ACTION ON SB 136

Motion:

Motion by Senator Weeding that SB 136 DO PASS.

Discussion:

None.

Amendments, Discussion, and Votes:

Senator Bianchi said he wanted to offer an amendment to put the conservation districts into the title.

Michael Kakuk stated that he would very much like to keep from amending the grey bill. He explained that all of the amendments the Committee has can co-exist together with minor exceptions. He further explained that the grey bill does not exist if the Committee does not adopt the large set of amendments submitted by Senator Beck. Mr. Kakuk reminded the Committee that they are also looking at Senator Grosfield's amendments (Exhibit #5).

Mr. Kakuk further advised the Committee that there are amendments requested by Dennis Taylor, Chief Administrative Officer, City of Missoula. He said Mr. Taylor would withdraw his amendment if it would cause too many problems as he wanted the bill to pass out of committee. Mr. Kakuk explained that the amendment inserts "the commissioners may not include within a local..." has been withdrawn.

Senator Bianchi asked if the grey bill is the result of extensive meetings between EQC and interested parties.

Senator Doherty made a motion to adopt the amendments in the gray bill. The motion carried unanimously.

Senator Hockett made a motion to approve amendment #1 (Senator Bianchi's amendments) to put the Board of Supervisors of Conservation Districts into the bill.

Michael Kakuk advised the Committee that this amendment would bring conservation districts into the process of establishing water quality for local district programs.

Senator Beck replied that the Board of Supervisors of Conservation Districts wanted this amendment and that it would have to be tied to 76-15-201, MCA.1.

The motion made by Senator Hockett carried unanimously.

Senator Grosfield made a motion to approve the amendments prepared by Gail Kuntz (dated February 20, 1991 - two pages).

Senator Grosfield advised the Committee that it was found that the best management practices that may be imposed on each of the facilities causing pollution are authorized in Section 24. He said this is addressed at the bottom of page 8 of the grey bill.

Mr. Kakuk explained that page 5 sets up the boundaries of the water quality district which must correspond to the area in need (pursuant to subsection (b)). Senator Grosfield said he was concerned with having a water quality area that tries to expand the boundaries for the purpose of raising taxes to cover their

costs.

Mr. Kakuk asked if the Committee was going to do anything with Amendment #5, striking "and", following "district" on page 9, line 11. He said it reappears in amendment #6, and discussed amendments #7 and #8.

Mr. Kakuk further explained that Senator Grosfield's amendment #2 conflicts with another amendment. He stated that amendment #1 (Grosfield) would repeat Senator Beck's amendments regarding Section 24, subsection (4). He advised the Committee that Senator Beck's amendment says the Board may define by rule the types of best management practices that local water quality district may impose upon the types of facilities on the source of the pollution.

Mr. Kakuk asked if the Committee is clear that by adopting Senator Grosfield's First Amendment they would replace Senator Beck's first amendments.

Senator Doherty asked why Senator Grosfield's amendments take out local water quality control districts. Senator Grosfield replied that Section 24 does not give the authority to local water quality districts but to the counties who may adopt something by ordinance. He explained that the authority is not in the district but in the county board district.

Senator Doherty asked if the qualification instructions say that Section 14 is a board of DHES. John Geach replied that board of directors means the Board of Directors of a Water Quality District.

Senator Hockett questioned amendments #6 and #7 and asked for a definition of "substantial". Michael Kakuk replied that "substantial" is not defined in the bill and said that perhaps Senator Grosfield could provide insight into the intent of that language. He commented that the Committee could clarify "substantial" if they wished.

Senator Grosfield stated that he proposed this language "because we don't know where the water quality district boundaries are going to be". He said he did not see any problems with this language and said a judge might rule that 10 or 15 percent is substantial.

Senator Bianchi asked how the Grosfield amendment fits into the other amendments.

Senator Bengtson replied that she is talking about how a district is formed and said 20 percent of taxpayers can object (bottom of page 6, gray bill).

Senator Bengtson said she believed the bill is geared to units of people and that she wondered if there was any discrepancy

between the substantial amount of land in the district.

Will Selser, Lewis and Clark City County Health Department, said he worked with Senator Beck on this bill for the last two years. He commented that the definition of "pre-assessed units" includes all of properties with improvements. Mr. Selser advised the Committee that it also caps the amount that can be multiplied against any rancher or other industry at 50 times what the rate is going to be. He explained that at \$5 per residence, the cap would be \$250.00 for ASARCO, for example.

Will Selser stated that the only problem he could see with Senator Grosfield's Amendments is that they take away the prevention focus from these water quality districts. The real purpose of the whole bill was to try to keep from having problems. It also allows for problems like Missoula has.

Senator Weeding made a motion that the Grosfield Amendments be adopted. Senator Weeding's motion was adopted.

Senator Tveit made a motion that the Beck Amendments #3 (The Atlantic Richfield Amendment) be adopted. (Exhibit 6).

Senator Tveit's motion carried.

Recommendation and Vote:

Senator Weeding moved that the bill as amended DO PASS. The motion carried unanimously.

EXECUTIVE ACTION ON SB 355

Motion:

Senator Tveit made a motion that Senate Bill 355 DO PASS with amendments.

Discussion:

Senator Tveit said SB 355 had an amendment recommended by the Department and endorsed by the sponsor.

Amendments, Discussion, and Votes:

Michael Kakuk explained that the way the law reads now is that the owner of motor fuel tanks of 1,100 gallons or less which are used for non commercial purposes are exempt or a tank used for storing heating oil of any size is exempt and what the department wants to do is to insure that the intent of the law is clear that it is only heating oil tanks 1100 gallons or less that are exempt from those inspection provisions and that is what the amendment does.

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Senator Tveit made a motion to approve the amendment on page 3, line 21, Section 3, (75-11-217, MCA), line 21 and would insert "with the capacity of 1100 gallons or less". The motion carried unanimously.

Recommendation and Vote:

Senator Bengtson made a motion that the Senate Bill 355 DO PASS AS AMENDED. The motion carried unanimously.

EXECUTIVE ACTION ON SB 211

Motion:

Motion by Senator Grosfield that SB 211 DO PASS.

Discussion:

There was no discussion.

Amendments, Discussion, and Votes:

Senator Grosfield made a motion to approve the amendment on page 1, which says "may constitute". He asked the Committee to look at subsection (4) which sets up categories for fines.

Senator Doherty said he believes the change would or may constitute a significant change by taking into account the different circumstances in various violations. He told the Committee he questions what happens when people don't have the ability to pay.

Senator Keating asked if the amount of the fine is discretionary and if then each day of the violation is absolute? Michael Kakuk replied that there is discretionary action to mitigate the amount that would be charged per day so the \$1000 per day could be reduced to \$200.00 per day over a period of five days.

Michael Kakuk further explained that the way it has been described before, a statement of intent guides the Department in the direction the Legislature wants without putting it into statute.

The motion made by Senator Grosfield carried unanimously.

Senator Weeding made a motion to approve Senator Harp's amendments.

The motion carried unanimously.

Recommendation and Vote:

Senator Keating made a motion that SB 211 DO PASS AS AMENDED. The motion carried unanimously.

EXECUTIVE ACTION ON SENATE BILL 303

Motion:

Senator Weeding made a motion that SB 303 DO PASS.

Discussion:

Senator Weeding proposed no amendments.

Amendments, Discussion, and Votes:

Senator Grosfield proposed amendments. (Exhibit #7). He stated that these were to eliminate A and B throughout the bill. The A and B water quality lines were brought forth in the testimony. In his opinion, water quality and water rights laws were getting mixed. There are other ways to address the water quality issue, words that establish the water rights that is acceptable for water quality purposes and he felt that was the way to address the water quality part--not this way. Grosfield said this could have a very significant affect on water rights. The water quality language would be eliminated by these amendments.

Senator Grosfield moved that his amendments DO PASS.

Senator Bianchi asked why this would have a detrimental effect on the existing water rights. Senator Grosfield responded that in the testimony, they had talked about essentially having a water right to protect water quality it is not a water right because there is no water in the system. There is no water right for that but it is a de facto water right that is not really a technical right as such that one can go to court and protect it like one can a water right. It seems to me if you want a water right for water quality there is a very simple procedure although it does take a little time and it is only available to public entities. There is a readily available process. They can go and apply and the day they apply is the day of their priority. So even though the process may take a while their priority date is the date they apply and that is a readily available process that is the way to handle water quality.

Senator Weeding stated that in his opinion, considering quality would in fact strengthen the existing rights. The owners would have one more thing to protect their rights from somebody degrading their right by using the quality. It strengthens the law.

Senator Doherty commented that it makes eminent sense to simply add as a criteria before one is granted the water right permit that one must make sure before you get the permit that another appropriators ability to use water will not be adversely affected. An appropriator could file an objection against an industrial discharge permittee and enter into negotiations but

unless it is in the law, the department doesn't have the authority because there are not criteria to modify, alter, or deny the permit.

Senator Weeding referred to amendments that he had offered earlier and explained that his amendment would grant rule making authority to the department to administer this act and in essence tell them that they did not have to go through extra ordinary efforts to find water quality problems. Only when it was brought to their attention or they had substantial creditable evidence indicating water problems could they deny granting a particular permit. The reason for his amendment was to answer the fiscal note on which \$78,000 was included on the presumption that all permit applications would have to be reviewed for quality and after the amendments DNRC submitted a revised fiscal note of \$27,000 agreeing that if they didn't have to make an extra ordinary effort that it would be a lot cheaper to administer. Even if there is no water quality problems then we should not perhaps leave this granting of additional permits carte blanche out there without considering what effect that additional permit would have on existing rights. If there is going to be a further degrade of the quality...that is the reason they should deny the permit.

Senator Keating asked Ted Doney if he had any objections to Senator Grosfield's Amendments.

Mr Doney replied that he only objected to taking out paragraph B.

Senator Tveit stated that the impression he was getting was that the department was a little concerned about the pollution factor in paragraph B in that somebody could be taking water out that would otherwise be used for disposal purposes. Senator Tveit said that it seemed to him that Senator Grosfield felt there is no reason to address water quality in this bill that really all that needed to be dealt with is the offer for recharge rates and some of the other things that were going on in the bill. This would leave it a matter of policy decision of whether water quality needed to be addressed in this bill and the main argument seemed to be "no" because water quality can be addressed elsewhere.

Senator Tveit said that this bill should be put into the form that is acceptable to those who had particular problems and want this bill. Missoula and other places would probably like to have the offer for recharge and then the change for the beneficial use. The amendments ought to be adopted and take water quality out and fix the bill the way the people who want it would like to see it.

Senator Doherty stated that while this bill may be a departure from current law it did seem to be the purpose of legislation. He felt that it was entirely right, decent, and honest thing to do. It apparently is a policy decision to include in public

interest the criteria of water quality in all the water quality permits. The cities already have these rights but private entities can't make water reservations and that is where the language that talks about reducing the supply of a prior appropriator is entirely appropriated on.

Senator Grosfield's motion that his amendments DO PASS was passed 6 to 5.

Senator Weeding moved the amendments that were submitted with the bill, those prepared by Gail Kuntz, requested by Senator Weeding and prepared on February 15.

Senator Weeding stated that page 1, line 14 pertained somewhat to the water quality discussion.

Senator Grosfield made a substitute motion that an amendment identical to Senator Weeding's in all ways except that the water quality be taken out of it also be adopted.

Senator Grosfield's substitute motion passed 6 to 5.

Recommendation and Vote:

Senator Weeding moved that Senate Bill 303 DO PASS AS AMENDED.

Senator Weeding's motion passed unanimously.

EXECUTIVE ACTION ON SB 313

Motion:

Motion by Senator Grosfield that SB 313 DO PASS.

Discussion:

There was no discussion.

Amendments, Discussion, and Votes:

Senator Grosfield moved the Stan Bradshaw's amendment. He also noted for the record that there had been an error in the names on the amendments. The set that says Keating is really the Grosfield Amendment and the one that says Grosfield is the Keating Amendment.

Senator Grosfield explained that all his amendment would do was strike the words that relate to the environmental litigation on page 6, line 12 through 14.

Senator Grosfield's motion passed.

Senator Keating made a motion that his amendment pass.

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Senator Keating explained that his amendment would affect page 13, line 23 on the bill which increases the coal severance tax for the water development from 1/4 to 2 1/2, essentially reducing general fund revenue by \$183,000 a year. His amendment would delete the 2 1/2 and restore 1/4.

Senator Keating's motion passed.

Senator Doherty stated that he had requested an amendment that apparently did not get made up. It would have affected page 16 of the bill talking about the language (Lines 2-6). It would strike that entire section and what the language does is in the beginning of fiscal year 1994 is to allocate 25% of the receipts of the Resource Community Trust Fund and the excess \$100,000 minimum balance from the Water Storage State's Special Revenue Account. Senator Doherty stated that he felt that if they wanted to do that they would have plenty of opportunities after the studies have been done. He also felt that it was premature to decide where to spend that much money in that particular account at this legislative session when it could be done at the next legislative session.

Senator Doherty moved that his amendment DO PASS.

Senator Tveit stated that he felt the water storage issue should have been addressed thirty or forty years ago. Off-stream storage and the problems caused by drought and the number of bills introduced due to the shortage and an extended drought should be addressed immediately and steps taken to set the money aside to be sure it gets done. For these reasons he would be opposing the amendment.

Senator Weeding asked Karen Barclay if they anticipated reaching \$100 million in four years. Karen Barclay replied that the fund has been growing at about \$5 million a year.

Senator Weeding pointed out that there would be one or two more sessions before that money was even available and there should be no hurry about making this earmarked at this time.

Senator Grosfield stated that he would resist this amendment. While there may not be any money available until 1994 or 1995 it is also true that there is an awful lot of people that recognize it and there are an awful lot of people in line already with several bills for this session and for exactly this sort of thing. It is a question of anticipating some needs and trying to put money toward the need.

Senator Bianchi stated that he didn't really disagree that this is a good source of money but there are a lot of studies done every year and in two years or maybe even four years things may be different and there may be other things of greater importance to use the resource fund for.

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Senator Doherty's motion passed 6 to 5.

Senator Doherty moved to amend the title to conform to his amendment.

Senator Doherty's motion passed.

Senator Bianchi moved that his amendments DO PASS.

Senator Bianchi stated that he had a problem with the fact that a source of money to repair dams and to build off-stream storage sites was being looked at to accommodate irrigators. While these sites may also be used by boaters, fishermen, etc., they are in reality built for consumptive water users. When the studies are being done to find out ways to repair these dams or to build new dams the possibility of funding through a user fee for water itself is possible. The amendment basically requests the study by the Department of Natural Resources to look at the possibilities of setting a user fee for those people who are using water across the state in consumptive ways. It is a fair approach and if a study is going to be done to look at a tax or look at a fee for recreational users, the study should also look into a fee for those people who in fact are using the water.

Senator Grosfield stated that he would resist this amendment also. He pointed out that in Option 1 of the section on payment by beneficiaries it states that this is already being done. There is no need to study something that is already being done.

Senator Bianchi stated that a fund should be developed to pay for these projects before they are built instead of taking public monies or borrowing money to build these reservoirs and assessing the fees after the fact. We should study the possibilities of assessing a fee on those people that are consumptive users of water in the state and developing a fund to build storage sites so that the funds are there to do it.

Senator Keating asked Senator Bianchi if the Department would then be selling water and implying ownership of water. Senator Bianchi replied that the state owns the water.

Senator Anderson asked Senator Bianchi how he defined those who are diverting water out of the stream. Senator Bianchi responded that it would refer to those people who are in fact using this water or making money off this water. This is what he would call consumptive users.

Senator Anderson stated that "consumptive user" is a pretty broad term if you consider it to be anyone who makes money off the water. Recreationalists could make money off the water.

Senator Grosfield stated that the title of the subject is payment by beneficiary. The idea is to get some from everybody that is getting benefits.

NR022091.SM1

Karen Barclay stated that the recommendation said that beneficiaries such as consumptive users should continue to pay for those benefits and obviously this is done on every project. When new projects are considered this would be part of the evaluation in terms of the capital investment and the long term owing. It is already done in the existing programs. What the cost is to a particular consumptive user both in terms of capital investment and also the long term owing is always considered. So, when the recommendations were put into this bill, the recommendations were those things that were currently not being done such as earmarking a portion of the water and development, doing a feasibility study on recreational users fees, these are things that currently are not being done. We do not need statutes for things that are currently being done.

Senator Bianchi asked Barclay if the current system is working properly why are there dams out there that need repairing that are going to cost million and millions of dollars. Why isn't there a budget somewhere to repair these. Barclay responded that safety standards have changed requiring major changes in dams and reservoirs.

Senator Bianchi stated that these projects were, for the most part, built for irrigation projects. The irrigators through the years through the life of these dams should have been paying not only enough to build the dam initially because they were built with public funds but also to in some way in the future operate and maintain the dams.

Senator Bianchi's motion to pass his amendment failed.

Senator Grosfield moved that Senate Bill 313 DO PASS AS AMENDED.

Senator Doherty asked Pat Graham, Department of Fish, Wildlife and Parks, to explain the fiscal note.

Graham explained that when the fiscal note was developed they were under the misunderstanding that it was intended for the study of all water storage projects. However, the Department now knows that this was not the intent of the members of the State Water Planning Committee. They want a much more cursory view of the potential of these options. Much of that work is already being done in preparing and analyzing various options to funding the state park system and that is proposed in legislation right now. So it is our feeling, now, given that understanding that it's simply a matter of compiling now existing assessments and putting them into a report. It would be just a matter of redirecting some staff time for compiling that information. It is hard to say exactly how many hours of staff time.

Recommendation and Vote:

SENATE NATURAL RESOURCES COMMITTEE

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Senator Grosfield's motion passed 7:3.

EXECUTIVE ACTION ON SB 314

Motion:

Motion by Senator Weeding that SB 314 DO PASS.

Discussion:

There was no discussion.

Amendments, Discussion, and Votes:

Senator Grosfield moved that his amendment to Senate Bill 314 pass. (See amendment dated February 20, by Deborah Schmidt).

Senator Grosfield's motion passed.

Recommendation and Vote:

Senator Grosfield moved that Senate Bill 314 DO PASS AS AMENDED.

ADJOURNMENT

Adjournment At: 6:00 p.m.

Larry Stimatz, Chairman

Tina Price
Tina Price, Secretary

LS/tp

DATE 2-20-91

COMMITTEE ON Natural Resources

VISITORS' REGISTER

[illegible]

ROLL CALL VOTE

Attendance

SENATE COMMITTEE Natural Resources

Date 2/20/91 Bill No. _____ Time 3pm

NAME <i>Natural Resources</i>	YES	NO
Senator Anderson	✓	
Senator Bengston	✓	
Senator Bianchi	✓	
Senator Doherty	✓	
Senator Grosfield	✓	
Senator Hockett	✓	
Senator Keating	✓	
Senator Kennedy	✓	
Senator Tveit	✓	
Senator Weeding, Vice Chairman	✓	
Senator Stimatz, Chairman	✓	

Robert C. Gjel
Secretary

Chairman

Motion: _____

Amendments to SB 268
INTRODUCED BILL

1. Page 2, line 1
Following: "agency"
Strike: "conservation"
Insert: "procurement"
2. Page 3, line 18
Following: "Section 3."
Strike: "State"
Insert: "Public"
3. Page 3, line 19
Following: "Each"
Strike: "state"
Insert: "public"
4. Page 4, line 16
Following: "department"
Insert: ", in conjunction with the department of natural resources and conservation and the department of health and environmental sciences,"
5. Page 6
Following: line 1
Insert: "(5) The department shall provide guidelines to state agencies on the application of computer technology to reduce the generation of waste paper through: the use of electronic bulletin boards; the transfer of information in electronic rather than paper form; and other applications of computer technology."
6. Page 6, line 3
Following: "department"
Insert: ", in conjunction with the department of natural resources and conservation and the department of health and environmental sciences,"

2-20-91

TESTIMONY OF BRUCE M^CCANDLESS, CITY OF BILLINGS

SB268 -

IT IS IMPROPER FOR STATE GOVERNMENT TO REQUIRE THAT LOCAL GOV'T'S. PURCHASE RECYCLED MATERIALS. LOCAL OFFICIALS ARE CAPABLE OF DETERMINING THE DESIREABILITY AND AVAILABILITY OF PURCHASING THESE MATERIALS.

IT IS IMPROPER TO REQUIRE THAT A PRICE PREFERENCE BE GIVEN FOR RECYCLED MATERIALS. IF AGENCIES WISH TO USE RECYCLED MATERIALS, IT SHOULD BE SPECIFIED AND BID IN THAT MANNER. THEN, ALL BIDDERS ARE BIDDING SIMILAR MATERIALS.

IT IS IMPROPER FOR STATE GOV'T. TO REQUIRE THE USE OF RECYCLED MATERIALS, INCREASING OPERATING COSTS IN MANY CASES, WITHOUT PROVIDING ASSISTANCE IN MEETING THE REQUIREMENT; BOTH TECHNICAL AND FINANCIAL ASSISTANCE.

RECOMMENDED AMENDMENTS:

- 1) pg 2 LINES 17-19 - PUBLIC AGENCY MEANS THE STATE OF MONTANA, AGENCIES & DEPARTMENTS.
- 2) ENCOURAGE LOCAL GOVERNMENTS & SCHOOLS TO USE RECYCLED MATERIALS.

Montana Audubon Legislative Fund

Testimony on SB 268
House Natural Resources Committee
February 20, 1991

Mr. Chairman and Members of the Committee,

My name is Linda Lee and I'm here today representing the Montana Audubon Legislative Fund. The Audubon Fund is composed of nine Chapters of the National Audubon Society and represents 2,500 members throughout the state.

Audubon strongly supports Senate Bill 268. We appreciate Senator Svrcek's efforts in coming up with a comprehensive recycling program for the state. We all have heard so much about the need to recycle lately and there have been efforts in various public agencies to recycle. But, in order to make a significant difference in reducing Montana's contribution to the solid waste problem, we need to have an organized plan that:

- 1) reduces use through conservation
- 2) taps into the recycled products market
- 3) increases recycling

We are creatures of habit and it has taken years for us to develop the habit of using only one side of a sheet of paper. Some of us even think it isn't proper to print documents on both sides of a sheet. It will take some doing to create new habits and we all need the guidelines Senate Bill 268 offers.

The purchase of recycled materials may initially be more expensive, but the cost of not purchasing recycled material is far greater. It is time to support this new industry and reduce solid waste.

Effective recycling does involve planning and organization. Senate Bill 268 provides for these needs. Audubon urges you to support this bill.
Thank you.

K

Dated this 20 day of FEB, 1991.

Address: 836 FRONT STREET

HELIX A, mt

Telephone Number: 4144-5970

Dept of HEALTH & F.S

S03 355

Do you: Support? X Amend? X Oppose? _____

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

John Beach 2-20-91

DHES SUPPORTING TESTIMONY

SB 355

The Department of Health and Environmental Sciences supports SB 355.

We believe the passage of this bill would clarify sections of the current Montana Underground Storage Tank Installer and Licensing Act. It would also help to alleviate inconveniences and financial burdens which may be placed on non-commercial small tank owners who elect to preform their own tank work. This bill would allow state and local underground storage tank inspectors to concentrate their efforts on the tank installations, modifications and removals which pose the greatest concern to the environment. The Department believes these objectives can be achieved while still maintaining adequate oversight of these tank activities without sacrifice to environmental protection.

Based on underground storage tank permit records, the majority of the small farm, residential and heating oil tank work being conducted are tank closures. Many of these closures have occurred in remote areas of the state which do not pose serious environment threats. In addition, many of these remote areas do not have licensed inspectors available to conduct tank inspections. If a local inspector is not available a department inspector must be scheduled to conduct the inspection.

With the passage of this bill, the Department proposes to conduct the review and inspection of small farm, residential and heating oil tanks installations, modifications and closures in the following manner: (1) All tank and piping installations, conducted by a tank owner, would receive an inspection by either a licensed local or department inspector. It is essential these installations be inspected since they pose a long term liability to the environment. (2) An attempt will be made to inspect as many tank and piping closures as possible using local and department

inspectors. With the information which is required to be included with the tank permit application, the Department will be able to rank the environmental sensitivity of the tank's location. Sites located in areas of shallow groundwater or close to public water supplies will be given the highest priority and will require closure inspections. Closure sites located in less sensitive areas will be given a lower priority. If a local licensed inspector is not available and if an inspection by a department inspector can not be conveniently scheduled for the tank owner, the Department would have the discretion to allow alternative methods of site closure certification to be used in lieu of an inspection. These methods might include the submission of photographs of the tank and its excavation and the use of third party witnesses to verify the environmental conditions of the removal or closure. This information along with the results of the closure soil samples, which are required for all closures, will enable the Department to adequately review and certify the closure.

When an inspection is conducted the costs for reimbursement of the inspection services will be funded using permit application and annual tank registration fees. Funding inspections in this manner, will enable the Department to waive inspection fees for owners of small non-commercial farm, residential and heating oil tanks.

PROPOSED AMENDMENT TO SB 355

Section 3. Section 75-11-217, MCA is amended to read:

"75-11-217. Exemption. The owner or operator of a farm or residential tank with a capacity of 1,100 gallons or less that is used for storing motor fuel for noncommercial purposes or a tank with a capacity of 1,100 gallons or less used for storing heating oil for consumptive use on the premises where stored shall obtain a permit for the installation or closure of the tank ~~but~~.

Amendments to Senate Bill No. 136
First Reading Copy

Requested by Senator Grosfield
For the Committee on Natural Resources

Prepared by Gail Kuntz
February 20, 1991

1. Page 7, line 23.
Following: "issue"
Insert: "by a two-thirds majority"
2. Page 8, line 18.
Following: "referendum"
Insert: "by a two-thirds majority vote"
3. Page 13, line 8.
Following: "referendum"
Insert: "by a two-thirds majority vote"

Proposed Amendment to SB.136

Atlantic Richfield
February 20, 1991

1. Page 17, proposed subparagraph (6)(b)(i), second line.
Following: "department"
Insert: "or federal government"

2. Page 17, proposed subparagraph (6)(b)(i), fourth line.
Following: "chapter 10"
Insert: "or the federal CERCLA Acts or federal
environmental safety or health statutes and regulations"

8964W

SENATE BILL NO. 136

INTRODUCED BY

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE ESTABLISHMENT OF LOCAL WATER QUALITY DISTRICTS; AUTHORIZING ESTABLISHMENT OF FEES; AUTHORIZING GOVERNING BODIES OF COUNTIES, CITIES, AND TOWNS THAT PARTICIPATE IN A LOCAL WATER QUALITY DISTRICT TO ADOPT LOCAL LAWS RELATED TO WATER QUALITY PROTECTION; AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO APPROVE LOCAL WATER QUALITY PROGRAMS; AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO MONITOR IMPLEMENTATION OF LOCAL WATER QUALITY PROGRAMS; AND AMENDING SECTION 75-5-106, MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill in order to provide guidance to the board of health and environmental sciences concerning rulemaking and approval of local water quality programs. The board shall adopt rules concerning the format of local water quality programs, including the level of information necessary for a local water quality district to show that its proposed program will be consistent with Title 75, chapter 5, and that its program will be effective in protecting, preserving, and improving the quality of surface water and ground water. ~~The board of health and environmental sciences shall ensure that local water quality programs do not duplicate department of health and environmental sciences requirements and procedures relating to the regulation and permitting of waste discharge sources, enforcement of water quality standards, implementation of the nondegradation policy, or other water quality protection authorities.~~ The board may define by rule the types of best management practices that a local water quality district may impose upon each of the types of facilities and sources of pollution that may be regulated by local ordinances as authorized under [section 24 (4)].

It is the intent of the legislature that administrative responsibilities for water quality protection be clearly allocated and, when necessary, clearly divided between the department of health and environmental sciences and a local water quality district, insofar as possible, to ensure that permit holders, permit applicants, and citizens are not subject to conflicting or duplicative requirements. Through its approval of local water quality programs, the board of health and environmental sciences shall ensure that the department of health and environmental sciences' ability to continue to administer federally delegated water quality protection programs is not impaired.

The board may also adopt rules to specify the procedures the department of health and environmental sciences shall follow pursuant to 75-5-106 to authorize a local water quality district to enforce provisions of Title 75, chapter 5.

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

NEW SECTION. Section 1. **Findings and purpose.** (1) Pollution and degradation of surface water and ground water pose both immediate and long-term threats to the health, safety, and welfare of citizens of this state.

(2) Because of the expense and difficulty of ground water rehabilitation and cleanup and the need to protect drinking water supplies, policies and programs to prevent ground water contamination must be implemented.

(3) The purpose of [sections 1 through 23] is to provide for the creation of local water quality districts to protect, preserve, and improve the quality of surface water and ground water.

NEW SECTION. Section 2. **Definitions.** As used in [sections 1 through 23], unless the context indicates otherwise, the following definitions apply:

(1) "Board of health and environmental sciences" as used in [sections 1 through 23] means the board of health and environmental sciences as provided in 2-15-2104.

(2) "Board of directors" means the board of directors provided for in [section 12] or a joint board of directors provided for in [section 21].

(3) "Commissioners" means the board of county commissioners or the governing body of a city-county consolidated government.

(4) "Family residential unit" means a single-family dwelling.

(5) "Fee-assessed units" means all real property with improvements, including taxable and tax-exempt property as shown on the property assessment records maintained by the county, and mobile homes as defined in 15-24-201.

(6) "Local water quality district" means an area established with definite boundaries for the purpose of protecting, preserving, and improving the quality of surface water and ground water in the district as authorized by [sections 1 through 23].

NEW SECTION. Section 3. **Authorization to initiate creation of a local water quality district.** (1) The commissioners may initiate the creation of a local water quality district for the purpose of protecting, preserving, and improving the quality of surface water and ground water, as provided by [sections 1 through 23], by holding a public meeting, passing a resolution of intention, providing an opportunity for owners of fee-assessed units to protest, and conducting a public hearing to hear and decide upon protests, as provided in [sections 5 through 8].

(2) A city or town may be included in the district if approved by the governing body of the city or town.

NEW SECTION. Section 4. **Public meeting -- resolution of intention to create local water quality district.** (1) The commissioners shall hold at least one public meeting concerning the creation of a local water quality district prior to the

passage of a resolution of intention to create the district.

(2) The resolution of intention must designate:

- (a) the proposed name of the district;
- (b) the necessity for the proposed district;
- (c) a general description of the territory or lands included in the district, including identification of the district boundaries;
- (d) a general description of the proposed water quality program;
- (e) the initial estimated cost of the water quality program; and
- (f) the initial proposed fees to be charged.

NEW SECTION. Section 5. **Participation of cities and towns.**

(1) Upon passage of a resolution of intention, the commissioners shall transmit a copy of the resolution to the governing body of any incorporated city or town within the proposed local water quality district for consideration by the governing body.

(2) If the governing body of the city or town by resolution concurs in the resolution of intention, a copy of the resolution of concurrence must be transmitted to the commissioners.

(3) If the governing body of the incorporated city or town does not concur in the resolution of intention, the commissioners may not include the city or town in the district but may continue to develop a district that excludes the city or town.

NEW SECTION. Section 6. **Notice of resolutions of intention and concurrence.** (1) The commissioners shall give notice of the passage of the resolution of intention and resolution of concurrence, if applicable, and publish a notice that:

- (a) describes the local water quality program that would be implemented in the local water quality district;
- (b) specifies the initial proposed fees to be charged;
- (c) designates the time and place where the commissioners will hear and decide upon protests made against the operation of the proposed district; and
- (d) states that a description of the boundaries for the proposed district is included in the resolution on file in the county clerk's office.

(2) The notice must be published as provided in 7-1-2121 and must also be posted in three public places within the boundaries of the proposed district.

(3) The commissioners shall mail to all owners of proposed fee-assessed units, as listed in the county assessor's office, a postcard that identifies the location where the resolution of intention, resolution of concurrence, and protest forms may be obtained.

NEW SECTION. Section 7. **Right to protest -- procedure.** (1) At any time within 30 days after the date of the first publication of the notice provided for in [section 6(1)], a person owning a fee-assessed unit located within the proposed local water quality district may make written protest, ~~on forms provided by the county clerk,~~ against the proposed district and the fees proposed to be charged.

(2) The protest must be in writing ~~on the forms provided by the county clerk~~ and must be delivered to the county clerk, who shall endorse on it the date the ~~completed form~~ protest is received.

(3) Owners may file one protest per fee-assessed unit.

NEW SECTION. Section 8. **Hearing on protest.** (1) At the next regular meeting of the commissioners after the expiration of the time period provided for in [section 7], the commissioners shall hear and decide upon all protests. ~~The commissioners' decision is final and conclusive.~~

(2) The commissioners may adjourn the hearing as necessary.

NEW SECTION. Section 9. **Sufficient protest to bar proceedings require referendum.** If the owners of more than 20% of the fee-assessed units in the proposed district protest the creation of the proposed district and the fees proposed to be charged, the commissioners are barred from further proceedings on the matter unless the commissioners submit a referendum to create the district to the registered voters who reside within the proposed district and the registered voters approve the creation of the district and establish the fees by approving a the referendum on the issue.

NEW SECTION. Section 10. **Referendum.** (1) The commissioners may adopt a resolution causing a referendum to be submitted to the registered voters who reside within a proposed local water quality district to authorize the creation of the district and establish fees.

(2) The referendum must state:

(a) the type and maximum rate of the initial proposed fees that would be imposed, consistent with the requirements of [section 18];

(b) the maximum dollar amount for a family residential unit; and

(c) the type of activities proposed to be financed, including a general description of the local water quality program; and

(d) a general description of the areas included in the proposed district.

NEW SECTION. Section 11. **Insufficient protest to bar proceedings -- resolution creating district -- power to implement local water quality program.** (1) The commissioners may create a local water quality district, establish fees, and appoint a board of directors if the commissioners find that insufficient protests have been made in accordance with [section 9] or if the registered voters who reside in the proposed district have approved a referendum as provided in [section 10].

(2) To create a local water quality district, the commissioners shall pass a resolution in accordance with the resolution of intention introduced and passed by the commissioners or with the terms of the referendum.

(3) The commissioners and board of directors may implement a local water quality program after the program is approved by

the board of health and environmental sciences pursuant to [section 24].

NEW SECTION. Section 12. **Board of directors.** (1) Except as provided in subsections (3)(b) and (5), the commissioners shall appoint a board of directors for the local water quality district.

(2) The board of directors consists of not less than five members, including one county commissioner or member of the governing body of a city-county consolidated government, one member from the governing body of each incorporated city or town that is included in the district, and one member of the county or city-county board of health.

(3) The remaining members of the board of directors are selected from interested persons, as follows:

(a) from persons whose residences or businesses are distributed equally throughout the district if a county is the only unit of local government participating in the district; or

(b) through mutual agreement by all governing bodies if a county and one or more incorporated cities and towns are participating in the district.

(4) Terms of members of the board of directors are staggered and, after the initial terms, are for 3 years.

(5) In counties that have a full-time city-county health department, the city-county board of health, created as authorized by 50-2-106, may be designated as the board of directors for the local water quality district.

NEW SECTION. Section 13. **Powers and duties of board of directors.** The board of directors of a local water quality district, with the approval of the commissioners, may:

(1) develop a local water quality program, to be submitted to the board of health and environmental sciences, for the protection, preservation, and improvement of the quality of surface water and ground water in the district;

(2) implement a local water quality program;

(3) administer the budget of the local water quality district;

(4) employ personnel;

(5) purchase, rent, or lease equipment and material necessary to develop and implement an effective program;

(6) cooperate or contract with any corporation, association, individual, or group of individuals, including any agency of the federal, state, or local governments, in order to develop and implement an effective program;

(7) receive gifts, grants, or donations for the purpose of advancing the program and acquire by gift, deed, or purchase, land necessary to implement the local water quality program;

(8) administer local ordinances that are adopted by the commissioners and governing bodies of the participating cities and towns and that pertain to the protection, preservation, and improvement of the quality of surface water and ground water;

(9) apply for and receive from the federal government or the state government, on behalf of the local water quality

district, money to aid the local water quality program;

(10) borrow money for assistance in planning or refinancing a local water quality district and repay loans with the money received from the established fees; and

(11) construct facilities that cost not more than \$5,000 and maintain facilities necessary to accomplish the purposes of the district, including but not limited to facilities for removal of water-borne contaminants; water quality improvement; sanitary sewage collection, disposal, and treatment; and storm water or surface water drainage collection, disposal, and treatment.

NEW SECTION. Section 14. **Powers and duties of commissioners.** In addition to the other powers and duties of the commissioners authorized by [sections 1 through 23], the commissioners may:

(1) adopt local ordinances in accordance with the requirements of [section 24];

(2) establish fees;

(3) review and approve the annual budget of the local water quality district; and

(4) approve the construction of facilities that cost more than \$5,000 but not more than \$100,000 a year and that are necessary to accomplish the purposes of [sections 1 through 23], including but not limited to facilities for removal of water-borne contaminants; water quality improvement; sanitary sewage collection, disposal, and treatment; and storm water or surface water drainage collection, disposal, and treatment.

NEW SECTION. Section 15. **Implementation of program.** The board of directors may implement a local water quality program in parts of a local water quality district before the program is implemented in the district as a whole. If a program is initially implemented in only a portion of a district, the fees may be levied only against that part of the district where the program is being implemented. As the program is expanded throughout the district, each additional part of the district that is covered by the program shall pay the fee.

NEW SECTION. Section 16. **Changes in district boundaries.** The board of directors may by resolution make changes in the boundaries of a local water quality district that the board determines are reasonable and proper, following the same procedures of notice and hearing provided in [sections 6 through 8] except that the notice provisions of [section 6(3)] apply only to the owners of proposed fee-assessed units in new areas that are proposed to be included in the district. If 20% of the owners of fee-assessed units in the new areas protest the inclusion in the district and the fees proposed to be charged, the board of directors is barred from further proceedings on the matter unless the registered voters who reside in the areas proposed for inclusion agree to be included in the district and accept the proposed fees by approving a referendum in accordance with the provisions of [section 10].

NEW SECTION. Section 17. **Role of county attorney -- contracts for legal services.** The board of directors may, by

agreement with the commissioners, contract with the county attorney or an attorney licensed to practice law in the state of Montana to perform legal services for the local water quality district.

NEW SECTION. Section 18. **Fees -- determination of rates -- increases -- exemption for agricultural water use.** (1) The commissioners shall determine fee rates according to a classification system that is based upon the volume of water withdrawn and the volume and type of waste produced at each fee-assessed unit in the local water quality district.

(2) Fees for commercial and industrial units must be based on a comparison with a typical family residential unit as to volume of water withdrawn and volume and type of waste produced. Commercial and industrial units may be assessed fees that are not greater than 50 times the fees assessed on a family residential unit.

(3) The commissioners may increase fees up to 10% a year by passing a resolution to establish the new fee rate. The commissioners may not approve a proposed fee increase of more than 10% a year unless notice of the proposed increase is given as provided in [section 6(1) and (2)] and opportunity for protest is provided as set forth in [sections 7 and 8]. If more than 20% of the owners of fee assessed units in the district protest, the fee increase may not be approved except through the referendum procedure provided for in [section 10].

(4) Water withdrawals for irrigation and livestock use and related water discharges may not be assessed fees.

NEW SECTION. Section 19. **Procedure to collect fees.** The month the local water quality district is created pursuant to [section 11], the department of revenue or its agents shall ensure that the amount of the fees is placed on the county tax assessments for each fee-assessed unit. Unpaid fees are a lien on the fee-assessed unit and may be enforced as a lien for nonpayment of property taxes.

NEW SECTION. Section 20. **Disposition and administration of proceeds.** (1) All fees and other money received by a local water quality district must be placed in a separate fund maintained by the county treasurer and must be used solely for the purpose for which the local water quality district was created.

(2) The commissioners shall draw warrants upon the fund on claims approved by the board of directors.

NEW SECTION. Section 21. **Creation of joint local water quality districts.** (1) Joint local water quality districts are districts that encompass two or more counties or parts of counties.

(2) A joint local water quality district may be created if the commissioners of each affected county:

(a) create the district, following the procedures prescribed under [sections 3 through 11]; and

(b) appoint a joint board of directors that consists of at least five members and that is consistent with the requirement of [section 22(2)(b)], if applicable.

NEW SECTION. Section 22. Composition of board of directors of joint district -- terms. (1) The board of directors for a joint district consists of one commissioner from each county involved, one member from each incorporated city or town included in the district, and one member from each county or city-county board of health.

(2) The remaining members of the joint board of directors are selected from interested citizens, as follows:

(a) persons whose residences or businesses are distributed equally throughout the district if counties are the only units of government participating in the joint district; or

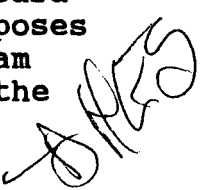
(b) through mutual agreement of all commissioners and governing bodies of cities and towns participating in the district.

(3) Terms of appointed members are staggered and, after the initial terms, are for 3 years.

NEW SECTION. Section 23. Administration of funds in joint districts. Fees and other money collected by a joint local water quality district may be administered by one county treasurer upon mutual agreement by the commissioners of the counties participating in a joint local water quality district.

NEW SECTION. Section 24. Local water quality districts -- board approval -- local water quality programs. (1) A county that establishes a local water quality district according to the procedures specified in [sections 1 through 23] shall, in consultation with the department, undertake planning and information-gathering activities necessary to develop a proposed local water quality program.

(2) A county may implement a local water quality program in a local water quality district if the program is approved by the board after a hearing conducted under 75-5-202.

(3) In approving a local water quality program, the board shall determine that the program is consistent with the purposes and requirements of Title 75, chapter 5, and that the program will be effective in protecting, preserving, and improving the quality of surface water and ground water, considering the administrative organization, staff, and financial and other resources available to implement the program. 

(4) Subject to the board's approval, the commissioners and the governing bodies of cities and towns that participate in a local water quality district may adopt local ordinances that:

~~(a) are compatible with, more stringent than, or more extensive than the requirements imposed by 75-5-303 through 75-5-306 and 75-5-401 through 75-5-404 and rules adopted under those sections, to protect water quality, implement the nondegradation policy, enforce water quality standards, regulate sources that discharge wastes into state waters, establish pollutant discharge permitting requirements, and ensure proper management of substances that have the potential to contaminate water quality; to regulate the following specific facilities and sources of pollution:~~

(a) onsite waste water disposal facilities;

(b) storm water runoff from paved surfaces;
(c) service connections between buildings and publicly owned sewer mains;

(d) facilities that use or store halogenated and nonhalogenated solvents, including hazardous substances that are referenced in 40 CFR 261.31, United States environmental protection agency hazardous waste numbers F001 through F005, as amended; and

(e) internal combustion engine lubricants.

(5) For the facilities and sources of pollution included in subsection (4) and consistent with the provisions of subsection (6), the local ordinances may:

(a) be compatible with or more stringent or more extensive than the requirements imposed by 75-5-304, 75-5-305, and 75-5-401 through 75-5-404 and rules adopted under those sections to protect water quality, establish waste discharge permit requirements, and establish best management practices for substances that have the potential to pollute state waters;

(b) provide for administrative procedures, administrative orders and actions, and civil enforcement actions that are consistent with 75-5-601 through 75-5-604, 75-5-611 through 75-5-616, 75-5-621, and 75-5-622 and rules adopted under those sections; and

~~(c) provide for penalties not to exceed the penalties provided in 75-5-631 through 75-5-633; and~~

~~(d) ensure that the provisions imposed by 75-5-605 are not violated.~~

(c) provide for civil penalties not to exceed \$1,000 per violation, provided that each day of violation of a local ordinance constitutes a separate violation, and criminal penalties not to exceed \$500 per day of violation or imprisonment for not more than 30 days, or both.

(6) The local ordinances authorized by this section may not:

(a) duplicate the department's requirements and procedures relating to permitting of waste discharge sources and enforcement of water quality standards;

(b) regulate any facility or source of pollution to the extent that the facility or source is:

(i) required to obtain a permit or other approval from the department, or is the subject of an administrative order, a consent decree, or an enforcement action pursuant to Title 75, chapter 5, part 4; Title 75, chapter 6; or Title 75, chapter 10; *or Federal govt.*

(ii) exempted from obtaining a permit or other approval from the department because the facility or source is required to obtain a permit or other approval from another state agency or is the subject of an enforcement action by another state agency; *or the*

(iii) the subject of an administrative order or consent decree issued pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601 through 9675, as amended; or

(iv) subject to the provisions of Title 80, chapter 8 or

chapter 15.

~~(5)~~ (7) If the boundaries of a district are changed after the board has approved the local water quality program for the district, the board of directors of the local water quality district shall submit a program amendment to the board and obtain the board's approval of the program amendment before implementing the local water quality program in areas that have been added to the district.

~~(6)~~ (8) The department shall monitor the implementation of local water quality programs to ensure that the programs are adequate to protect, preserve, and improve the quality of the surface water and ground water and are being administered in a manner consistent with the purposes and requirements of Title 75, chapter 5. If the department finds that a local water quality program is not adequate to protect, preserve, and improve the quality of the surface water and ground water or is not being administered in a manner consistent with the purposes and requirements of Title 75, chapter 5, the department shall report to the board.

~~(7)~~ (9) If the board determines that a local water quality program is inadequate to protect, preserve, and improve the quality of the surface water and ground water in the local water quality district or that the program is being administered in a manner inconsistent with Title 75, chapter 5, the board shall give notice and conduct a hearing on the matter.

~~(8)~~ (10) If after the hearing the board determines that the program is inadequate to protect, preserve, and improve the quality of the surface water and ground water in the local water quality district or that it is not being administered in a manner consistent with the purposes of Title 75, chapter 5, the board shall require that necessary corrective measures be taken within a reasonable time, not to exceed 60 days.

~~(9) If the local water quality district fails to take corrective measures within the time required, the department shall administer within the district all of the provisions of Title 75, chapter 5. The department's water quality program supersedes all local water quality ordinances, rules, and requirements in the affected local water quality district. The cost of administering the department's water quality program is a charge on the local water quality district.~~

(11) If an ordinance adopted under this section conflicts with a requirement imposed by the department's water quality program, the department's requirement supersedes the local ordinance.

~~(10)~~ (12) If the board finds that, because of the complexity or magnitude of a particular water pollution source, the control of the source is beyond the reasonable capability of a local water quality district or may be more efficiently and economically performed at the state level, the board may direct the department to assume and retain control over the source. A charge may not be assessed against the local water quality district for that source. Findings made under this subsection may

be based on the nature of the source involved or on the source's relationship to the size of the community in which it is located.

~~(11) A local water quality district in which the local water quality program is administered by the department under the provisions of subsection (9) may, with the board's approval, establish or resume a local water quality program that meets the requirements of subsections (1) through (4).~~

Section 25. Section 75-5-106, MCA, is amended to read:

"75-5-106. Interagency cooperation -- enforcement authorization. (1) The council, board, and department may require the use of records of all state agencies and may seek the assistance of such agencies. State, county, and municipal officers and employees, including sanitarians and other employees of local departments of health, shall cooperate with the council, board, and department in furthering the purposes of this chapter, so far as is practicable and consistent with their other duties.

(2) The department may authorize a local water quality district established according to the provisions of [sections 1 through 23] to enforce the provisions of this chapter and rules adopted under this chapter on a case-by-case basis. If a local water quality district requests the authorization, the local water quality district shall present appropriate documentation to the department that a person is violating permit requirements established by the department or may be causing pollution, as defined in 75-5-103, of state waters or placing or causing to be placed wastes in a location where they are likely to cause pollution of state waters. The board may adopt rules regarding the granting of enforcement authority to local water quality districts."

NEW SECTION. Section 26. Codification instruction. (1) [Sections 1 through 23] are intended to be codified as an integral part of Title 7, and the provisions of Title 7 apply to [sections 1 through 23].

(2) [Section 24] is intended to be codified as an integral part of Title 75, chapter 5, and the provisions of Title 75, chapter 5, apply to [section 24].

-End-

Amendments to Senate Bill No. 136
First Reading Copy

Requested by Senator Beck
For the Committee on Natural Resources

Prepared by Gail Kuntz
February 7, 1991

1. Title, line 12.

Following: ";

Strike: "AND"

2. Title, line 14.

Following: "PROGRAMS"

Insert: "; AND AMENDING SECTION 75-5-106, MCA"

3. Statement of Intent, page 2, line 1 through line 8.

Following: "water." on line 1

Strike: the remainder of line 1 through "authorities." on line 8

Insert: "The board may define by rule the types of best management practices that a local water quality district may impose upon each of the types of facilities and sources of pollution that may be regulated by local ordinances as authorized under [section 24(4)]."

4. Statement of Intent, page 2, line 19.

Following: "impaired."

Insert: "The board may also adopt rules to specify the procedures the department of health and environmental sciences shall follow pursuant to 75-5-106 to authorize a local water quality district to enforce provisions of Title 75, chapter 5."

5. Page 3, line 2.

Following: "cleanup"

Insert: "and the need to protect drinking water supplies"

6. Page 3, line 25.

Following: "county"

Insert: ", and mobile homes as defined in 15-24-201"

7. Page 4, line 4.

Following: "district"

Insert: "as authorized by [sections 1 through 23]"

8. Page 4, line 9.

Following: "ground water"

Insert: ", as provided by [sections 1 through 23],"

9. Page 7, line 1.

Following: "protest"

Strike: ", on forms provided by the county clerk,"

10. Page 7, lines 3 and 4.

Following: "writing" on line 3
Strike: "on the forms provided by the county clerk"

11. Page 7, lines 5 and 6.
Following: "date the" on line 5
Strike: "completed form"
Insert: "protest"

12. Page 7, line 12.
Strike: line 12 in its entirety

13. Page 7, lines 15 and 16.
Strike: "bar proceedings"
Insert: "require referendum"

14. Page 7, line 20.
Following: "unless"
Insert: "the commissioners submit a referendum to create the district to"

15. Page 7, line 21.
Following: "district"
Insert: "and the registered voters"

16. Page 7, line 22.
Following: "approving"
Strike: "a"
Insert: "the"

17. Page 7, line 23.
Following: "referendum"
Strike: "on the issue"

18. Page 8, line 9.
Following: "unit;"
Strike: "and"

19. Page 8, line 10.
Following: "financed"
Insert: ", including a general description of the local water quality program; and
(d) a general description of the areas included in the proposed district"

20. Page 9, line 15.
Following: "residences"
Insert: "or businesses"

21. Page 15, line 24.
Following: "residences"
Insert: "or businesses"

22. Page 17, lines 10 through 19.
Following: "ordinances" on line 10

Strike: remainder of line 10 and subsection (a) in its entirety
Insert: "to regulate the following specific facilities and sources of pollution:

- (a) on-site waste water disposal facilities;
- (b) storm water runoff from paved surfaces;
- (c) service connections between buildings and publicly owned sewer mains;
- (d) facilities that use or store halogenated and nonhalogenated solvents, including hazardous substances that are referenced in 40 CFR 261.31, United States environmental protection agency hazardous waste numbers F001 through F005, as amended; and

- (e) internal combustion engine lubricants.

(5) For the facilities and sources of pollution included in subsection (4) and consistent with the provisions of subsection (6), the local ordinances may:

- (a) be compatible with or more stringent or more extensive than the requirements imposed by 75-5-304, 75-5-305, and 75-5-401 through 75-5-404 and rules adopted under those sections to protect water quality, establish waste discharge permit requirements, and establish best management practices for substances that have the potential to pollute state waters;"

23. Page 17, line 24.
Following: "sections;"
Insert: "and"

24. Page 17, line 25 through page 18, line 3.

Strike: subsections (c) and (d) in their entirety

Insert: "(c) provide for civil penalties not to exceed \$1,000 per violation, provided that each day of violation of a local ordinance constitutes a separate violation, and criminal penalties not to exceed \$500 per day of violation or imprisonment for not more than 30 days, or both.

(6) The local ordinances authorized by this section may not:

- (a) duplicate the department's requirements and procedures relating to permitting of waste discharge sources and enforcement of water quality standards;

- (b) regulate any facility or source of pollution to the extent that the facility or source is:

- (i) required to obtain a permit or other approval from the department or is the subject of an administrative order, a consent decree, or an enforcement action pursuant to Title 75, chapter 5, part 4; Title 75, chapter 6; or Title 75, chapter 10;

- (ii) exempted from obtaining a permit or other approval from the department because the facility or source is required to obtain a permit or other approval from another state agency or is the subject of an enforcement action by another state agency; or

- (iii) the subject of an administrative order or consent decree issued pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601 through 9675, as amended.

Renumber: subsequent subsections

25. Page 19, lines 13 through 21.

Following: line 12

Strike: subsection (9) in its entirety

Insert: "(11) If an ordinance adopted under this section conflicts with a requirement imposed by the department's water quality program, the department's requirement supersedes the local ordinance."

26. Page 20, lines 8 through 12.

Strike: subsection 11 in its entirety

27. Page 20, line 13.

Following: line 12

Insert: "Section 25. Section 75-5-106, MCA, is amended to read:

"75-5-106. Interagency cooperation -- enforcement authorization. (1) The council, board, and department may require the use of records of all state agencies and may seek the assistance of such agencies. State, county, and municipal officers and employees, including sanitarians and other employees of local departments of health, shall cooperate with the council, board, and department in furthering the purposes of this chapter, so far as is practicable and consistent with their other duties.

(2) The department may authorize a local water quality district established according to the provisions of [sections 1 through 23] to enforce the provisions of this chapter and rules adopted under this chapter on a case-by-case basis. If a local water quality district requests the authorization, the local water quality district shall present appropriate documentation to the department that a person is violating permit requirements established by the department or may be causing pollution, as defined in 75-5-103, of state waters or placing or causing to be placed wastes in a location where they are likely to cause pollution of state waters. The board may adopt rules regarding the granting of enforcement authority to local water quality districts."

Renumber: subsequent section

10 John I
Amendments to Senate Bill No. 136
First Reading Copy

Requested by Senator Bianchi
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
February 16, 1991

1. Page 10, line 8.

Following: "district"

Strike: ";

Insert: ". In developing the program, the board shall consult
with the board or boards of supervisors of conservation
districts, established as provided in 76-15-201, whose area
of jurisdiction is included within the boundaries of the
local water quality district."

Ex 7

Amendments to Senate Bill No. 303
First Reading Copy

Requested by Sen. Grosfield
For the Committee on Natural Resources

Prepared by Deborah Schmidt
February 15, 1991

1. Page 1, line 14.

Following: line 13

Insert: "STATEMENT OF INTENT

A statement of intent is required for this bill to provide direction to the department of natural resources and conservation concerning the adoption of rules. The department is required to issue permits to beneficially use water and approve changes in appropriation rights if the department has no substantial credible evidence indicating that the beneficial use or change in right would or cause long-term aquifer recharge rates to be exceeded. The legislature recognizes that new water withdrawals and changes in appropriation rights can cause long-term aquifer recharge rates to be exceeded and ground water to be diminished. The legislature also recognizes that the potential for these problems to occur is not necessarily widespread in the state and may, in fact, be limited to only a few drainages or basins. The department should adopt rules that establish criteria and a screening procedure for:

1) determining the areas of the state in which long-term aquifer drawdown and water quality problems may occur as a result of increased water withdrawal or changes in appropriation rights; and

2) identifying those applications for a permit to beneficially use water or change appropriation rights that may cause these adverse effects.

It is the legislature's intent that the department consider all available information constituting substantial credible evidence that is submitted to the department from any source or that is available to the department that relates to impacts of new water withdrawals or changes in appropriation rights upon long-term aquifer recharge and water quality. However, it is not the legislature's intent to impose upon the department new research or data collection obligations to implement the bill's provisions except in situations in which the department determines that impacts upon long-term aquifer recharge are likely and that additional effort beyond the department's current application evaluation procedures is warranted to document the probable extent of the impacts."

Amendments to Senate Bill No. 313
First Reading Copy

Requested by Senator Keating
For the Committee on Natural Resources

Prepared by Deborah Schmidt
February 20, 1991

1. Page 6, line 12.
Following: "project"
Strike: "development"

2. Page 6, lines 13 and 14.
Following: "with" on line 13
Strike: the remainder of line 13 through "increased" on line 14

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2-20

Amendments to Senate Bill No. 313
First Reading Copy

Requested by Senator Grosfield
For the Committee on Natural Resources

Prepared by Deborah Schmidt
February 20, 1991

1. Title, lines 13 and 14.

Following: "ADDITIONAL" on line 13

Strike: "COAL SEVERANCE AND"

2. Title, line 21.

Following: line 20

Strike: "15-35-108"

3. Page 9, line 24 through page 14, line 4.

Following: line 23 on page 9

Strike: section 8 in its entirety

Renumber: subsequent sections

Amendments to Senate Bill No. 314
First Reading Copy

Requested by Senator Grosfield
For the Committee on Natural Resources

Prepared by Deborah Schmidt
February 20, 1991

1. Title, lines 12 and 13.

Following: "TRANSFERS;" on line 12

Strike: the remainder of line 12 through "PERMIT;" on line 13

2. Page 6, lines 8 and 9.

Following: "beneficial use" on line 8

Strike: the remainder of line 8 through "water." on line 9

Following: "the"

Strike: "appropriator"

Insert: "authorized user"

3. Page 6, line 10.

Following: "district."

Insert: "The notification must contain a certified statement by a person with experience in the design, construction, or operation of project works for agricultural purposes that the reserved water has been put to use in substantial accordance with the terms and conditions of the authorization to use reserved water."

Following: "may"

Insert: "then"

4. Page 6, lines 13 through 20.

Following: line 12

Strike: lines 13 through 20 in their entirety

Amendments to Senate Bill No. 211
First Reading Copy

Requested by Senator Harp
For the Committee on Natural Resources

Prepared by Michael S. Kakuk
February 13, 1991

1. Page 3, line 2.

Following: "pollutants."

Strike: "Costs"

Insert: "Except as otherwise required by federal law or the terms
of a federal grant, costs"