

1 H BILL NO. 495
2 INTRODUCED BY Burnett

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ENABLE WATER USERS'
5 ASSOCIATIONS TO HAVE INPUT INTO AND APPEAL FROM DECISIONS OF
6 THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
7 RELATING TO REPAIR AND MAINTENANCE IN EXCESS OF \$25,000 ON
8 WATER PROJECTS INVOLVING AN ASSOCIATION AND TO REQUIRE
9 LEGISLATIVE APPROVAL FOR ABANDONMENT OF PROJECTS WHENEVER
10 THERE IS SUFFICIENT PROTEST BY AN ASSOCIATION."

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13 Section 1. Operation of projects with water users'
14 association. (1) As used in this section, "department" means
15 the department of natural resources and conservation
16 provided for in Title 82A, chapter 15 and "association"
17 means a water users' association.

18 (2) Whenever the department proposes a program of
19 maintenance, repair, operation, or alteration of a project
20 in excess of \$25,000, the cost of which will be borne by an
21 association pursuant to the terms of a water marketing
22 contract, the association shall be informed of the program
23 and given an opportunity to comment. The department shall
24 notify the association of its decision. If the association
25 believes the program to be unnecessary or excessive in cost,

1 it may appeal the department decision to the board of
2 natural resources and conservation as provided for in
3 89-115(4). The board shall notify the association of its
4 decision. If the board's decision is adverse to the
5 association, the association may file within 30 days of
6 receipt of notice of the board's decision a complaint to
7 review the board's decision in the district court in any
8 county where all or part of the project works are located or
9 in Lewis and Clark County.

10 (3) If a complaint is filed under subsection (2), the
11 court shall hold a trial de novo on the question of
12 necessity of the department program and the question of
13 excessive costs. If the association prevails, the court may
14 award costs to the association. The court may specify an
15 acceptable program of maintenance, repair, operation, or
16 alteration or may order the department and the association
17 to develop a program, subject to court approval.

18 (4) Whenever a program of maintenance, repair,
19 operation, or alteration is proposed, the department shall
20 assist the association in attempting to secure sources of
21 financing, including federal funds.

22 (5) Whenever the department proposes to abandon a
23 project which involves an association, the department shall
24 notify the association. If, within 30 days of receipt of the
25 notice of abandonment, stockholders of the association

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1 representing 15% or more of the issued and outstanding stock
2 of the association file a petition of protest with the
3 department, the project may not be abandoned without the
4 consent of the legislature.

-End-

STATE OF MONTANA

REQUEST NO. 228-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 26, 19 77, there is hereby submitted a Fiscal Note for House Bill 495 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

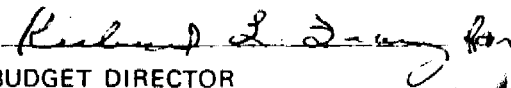
DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 495 enables water users' associations to have input into and appeal decisions of the Department of Natural Resources and Conservation concerning the repair and maintenance, in excess of \$25,000, on water projects involving the association, and to require legislative approval before the abandonment of a project whenever there is sufficient protest by an affected association.

FISCAL IMPACT:

The proposed legislation would have no fiscal impact on the operating expenses of the Department.

If a water user's association was successful in appealing a departmental decision, the legal expense of both parties would have to be paid by the state. It is impossible to estimate how many, if any, decisions would be appealed successfully.


BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-1-77

Approved by Committee
on Judiciary

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