

1 House BILL NO. 811  
 2 INTRODUCED BY Jeffrey Whiteley  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE AN ACCOUNT  
 5 WITHIN THE EARMARKED REVENUE FUND TO BE USED BY THE  
 6 DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION FOR  
 7 FEASIBILITY STUDIES OF WATER WORKS PROJECTS; TO REQUIRE  
 8 DEPOSIT OF REVENUES FROM WATER WORKS PROJECTS IN THE  
 9 ACCOUNT; AND TO APPROPRIATE \$400,000 FOR PURPOSES OF THE  
 10 PROGRAM; AMENDING SECTIONS 89-115 AND 89-116.1, R.C.M.  
 11 1947."

12  
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 89-115, R.C.M. 1947, is amended to  
 15 read as follows:

16 "89-115. Water funds -- rates -- sale of water --  
 17 appeals to board -- lease and sale of water rights and  
 18 property. (1) Subject to this act and section 89-103.2, the  
 19 department may fix and establish the prices, rates and  
 20 charges at which the resources and facilities made available  
 21 under this act may be sold and disposed of; enter into  
 22 contracts and agreements, and do those things which in its  
 23 judgment are necessary, convenient or expedient for the  
 24 accomplishment of the purposes and objects of this act,  
 25 under such general regulations and upon such terms,

1 limitations and conditions as it prescribes; the department  
 2 shall enter into the contracts and fix and establish the  
 3 prices, rates and charges so as to provide at all times  
 4 funds which will be sufficient to pay all costs of operation  
 5 and maintenance of the works authorized by this act,  
 6 together with necessary repairs thereto, and which will  
 7 provide at all times sufficient funds to meet and pay the  
 8 principal and interest of all bonds or loans as they  
 9 severally become due and payable; this act does not  
 10 authorize any change, alteration or revision of those rates,  
 11 prices or charges as established by any contract entered  
 12 into under this act except as provided by the contract.

13 (2) An incorporated water users' association that is  
 14 sustaining and responsible for the operations of a works is  
 15 solely liable for any court action which may be brought  
 16 against it or the state of Montana for any injury or damages  
 17 occurring on the works caused by a failure to maintain safe  
 18 working and operating conditions.

19 (3) A contract made by the department for the sale of  
 20 water, use of water, water storage or other service, or for  
 21 the sale of any property or facilities, shall provide that  
 22 in the event of a failure or default in the payment of  
 23 moneys specified in the contract to be paid to the  
 24 department, the department may, upon notice as is prescribed  
 25 in the contract, terminate the contract and all obligations

1 thereunder. The act of the department in ceasing on default  
2 to furnish or deliver water, use of water, water storage or  
3 other service under the contract does not deprive the  
4 department of, or limit any remedy provided by the contract  
5 or by law for the recovery of moneys due or which may become  
6 due under the contract.

7 (4) (a) A person aggrieved by a decision of the  
8 department to terminate any contract under subsection (3)  
9 may appeal to the board and be heard thereon by filing  
10 written notice of the appeal with the department within ten  
11 (10) days after receiving notice of termination of the  
12 contract from the department. The termination of the  
13 contract shall be stayed if an appeal is taken.

14 (b) If a dispute arises between the department and  
15 another party regarding amounts owing or the terms and  
16 conditions under a water marketing or water purchase  
17 contract, or under a contract for the construction or repair  
18 of works, that party may appeal to the board for a hearing  
19 thereon and a resolution of the dispute by filing written  
20 notice of the appeal with the department within thirty (30)  
21 days after the final decision of the department regarding  
22 the dispute.

23 (5) Subject to the approval of the board under section  
24 89-103.2, the department may sell, transfer to water user  
25 associations, abandon or otherwise dispose of any rights of

1 way, easements or property when it determines that they are  
2 no longer needed for the purposes of this act, or lease or  
3 rent the same or otherwise take and receive the income or  
4 profit and revenue therefrom. A determination shall be made  
5 by the department as to the market value of rights of way,  
6 easements or property to be sold, transferred, abandoned or  
7 otherwise disposed of.

8 (b) All income or profit and revenue of the works and  
9 all moneys received from the sale or disposal of water, use  
10 of water, water storage, or other service, and from the  
11 operation, lease, sale or other disposition of the works,  
12 property and facilities acquired under this act, shall be  
13 deposited to ~~the state general fund~~ an account created  
14 within the earmarked revenue fund to be used by the  
15 department for feasibility studies of water works projects,  
16 as "works" is defined by 89-102(3) and for purposes as  
17 stated in 89-102(3)."

18 Section 2. Section 89-116.1, R.C.M. 1947, is amended  
19 to read as follows:

20 "89-116.1. Disposition of moneys received from sale of  
21 water. ~~The outstanding water conservation revenue bonds~~  
22 ~~issued in seventeen (17) major irrigation projects and~~  
23 ~~purchased by the state shall be administered by the~~  
24 ~~department for the benefit of the state general funds.~~ All  
25 sums received from the sale of water through water purchase

1 contracts or otherwise from the ~~seventeen (17)~~ irrigation  
2 projects, except those funds which are specifically  
3 collected for the operation and maintenance of the projects,  
4 and all other income or other benefits arising from, out of,  
5 or in connection with the ownership of the projects from  
6 whatever source derived shall be deposited in ~~the state~~  
7 ~~general fund, to be applied on the retirement of the bonds~~  
8 ~~and any advances or other indebtedness made for the benefit~~  
9 ~~of the seventeen (17) projects by the department~~ the account  
10 created in and for the purposes stated in 89-115(4)."

11 Section 3. Appropriation. There is appropriated  
12 \$400,000 to the department of natural resources and  
13 conservation, water works projects feasibility study  
14 program, for the biennium ending June 30, 1979, from  
15 revenues collected under authority of 89-115 and 89-116.1.

-End-

Approved by Committee  
on Judiciary

1 House BILL NO. 811  
2 INTRODUCED BY Jeffrey Wright  
3

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20 charges at which the resources and facilities made available  
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22 contracts and agreements, and do those things which in its  
23 judgment are necessary, convenient or expedient for the  
24 accomplishment of the purposes and objects of this act,  
25 under such general regulations and upon such terms,

1 limitations and conditions as it prescribes; the department  
2 shall enter into the contracts and fix and establish the  
3 prices, rates and charges so as to provide at all times  
4 funds which will be sufficient to pay all costs of operation  
5 and maintenance of the works authorized by this act,  
6 together with necessary repairs thereto, and which will  
7 provide at all times sufficient funds to meet and pay the  
8 principal and interest of all bonds or loans as they  
9 severally become due and payable; this act does not  
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11 prices or charges as established by any contract entered  
12 into under this act except as provided by the contract.

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16 against it or the state of Montana for any injury or damages  
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23 (5) Subject to the approval of the board under section  
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8 (6) All income or profit and revenue of the works and  
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4 and all other income or other benefits arising from, out of,  
5 or in connection with the ownership of the projects from  
6 whatever source derived shall be deposited in ~~the state~~  
7 ~~general fund, to be applied on the retirement of the bonds~~  
8 ~~and any advances or other indebtedness made for the benefit~~  
9 ~~of the seventeen (17) projects by the department the account~~  
10 ~~created in and for the purposes stated in 89-115(6)."~~

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12 \$400,000 to the department of natural resources and  
13 conservation, water works projects feasibility study  
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15 revenues collected under authority of 89-115 and 89-116.1.

-End-