

1 House BILL NO. 814
 2 INTRODUCED BY Judiciary Com. Day

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT CERTAIN
 5 WATER RIGHTS AND RESERVATIONS OF WATER ARE SUBJECT TO FUTURE
 6 APPROPRIATION UNDER A SYSTEM OF PREFERRED USES; AMENDING
 7 SECTION 89-891, R.C.M. 1947."

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

10 Section 1. There is a new R.C.M. section that reads as
 11 follows:

12 Certain water rights and reservations subject to future
 13 appropriation for preferred uses. Any water right arising or
 14 derived from a permit approved or certificate of water right
 15 issued after July 1, 1977, for water and any reservation of
 16 water made pursuant to 89-890 and approved after July 1,
 17 1977, is subject to future appropriation according to the
 18 preference system established in [section 2 of this act].

19 Section 2. There is a new R.C.M. section that reads as
 20 follows:

21 System of preferred uses. (1) For purposes of this act,
 22 the following list of classes of preferred uses within the
 23 state of Montana is established, in decreasing order of
 24 preference:

- 25 (a) domestic;

- 1 (b) municipal;
 2 (c) agricultural and irrigation;
 3 (d) industrial;
 4 (e) water quality;
 5 (f) fish and wildlife;
 6 (g) recreation.

7 (2) After July 1, 1977, for each permit for water and
 8 each reservation of water made pursuant to 89-890, the
 9 department shall specify the class of use based on the
 10 classes listed in subsection (1).

11 (3) The water rights of a holder of a permit or
 12 reservation in a given class are subject to future
 13 appropriation by a water use of a higher preference. Within
 14 a class, first in time is first in right. When a permit
 15 application is received for use in a given class, for
 16 purposes of the criteria of 89-805, the department shall
 17 consider as unappropriated any water in a lower use class
 18 held under a permit or a reservation which is subject to
 19 future appropriations under this section and the holder of
 20 such permit or reservation may not be considered a prior
 21 appropriator.

22 Section 3. Section 89-891, R.C.M. 1947, is amended to
 23 read as follows:

24 "89-891. Priority. (1) As between appropriators, the
 25 first in time is the first in right. Priority of

1 appropriation does not include the right to prevent changes
2 by later appropriators in the condition of water occurrence,
3 such as the increase or decrease of streamflow, or the
4 lowering of a water table, artesian pressure or water level,
5 if the prior appropriator can reasonably exercise his water
6 right under the changed conditions.

7 (2) Priority of appropriation made under this act
8 dates from the filing of an application for a permit with
9 the department, except as otherwise provided in section 16
10 [89-880] of this act.

11 (3) Priority of appropriation perfected before the
12 effective date of this act shall be determined as provided
13 in sections 6 through 15 [89-870 through 89-879] of this
14 act.

15 (4) The provisions of this section are subject to the
16 provisions of [sections 1 and 2 of this act] concerning
17 preferred uses."

-End-

STATE OF MONTANA

REQUEST NO. 591-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 23, 19 77, there is hereby submitted a Fiscal Note for House Bill 814 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 814 provides that certain water rights and reservation of water are subject to future appropriations under a system of preferred uses.

FISCAL IMPACT:

House Bill 814 may have the effect of increased public hearings and legal proceedings; however, it is impossible to predict the amount of increased activity and the resulting additional costs.

Richard L. Drayton
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-24-77