

1 *Scott* BILL NO. *216*
 2 INTRODUCED BY *Boyle Stouy Flynn McQuibban*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE ATTORNEY
 5 FEES TO PRIOR APPROPRIATORS WHO OBJECT TO THE ISSUANCE OF A
 6 WATER USE PERMIT WHENEVER THE PERMIT APPLICATION IS DENIED."
 7

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

9 Section 1. There is a new R.C.M. section numbered
 10 89-884.1 that reads as follows:

11 89-884.1. Recovery of attorney fees when application
 12 denied. (1) If an application for a permit is denied, the
 13 applicant shall pay the reasonable attorney fees of any
 14 prior appropriator who objected to the application and was
 15 represented by an attorney at the hearing.

16 (2) The amount of the fee recoverable under subsection
 17 (1) shall be determined by the department after the hearing.
 18 The department shall notify both the applicant and the
 19 objector of the amount. The award of attorney fees under
 20 subsection (1) is a final action of the department and may
 21 be appealed to the district court.

22 (3) If an applicant appeals a denial of a permit to
 23 the district court and the denial is sustained, the district
 24 court may award reasonable attorney fees to any prior
 25 appropriator who objected to the application and was

1 represented by an attorney in the court action.
 -End-

INTRODUCED BILL

SB216

STATE OF MONTANA

REQUEST NO. 169-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 24, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 216 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:

Senate Bill 216 provides attorney fees to prior appropriators who object to the issuance of a water use permit whenever the permit application is denied.

FISCAL IMPACT:

None. The Department of Natural Resources and Conservation would only be responsible for determining the amount of fee awarded, which cost could be absorbed without requiring additional funds.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-28-77

Approved by Committee
on Agriculture Livestock
& Irrigation

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INTRODUCED BY Boyle Stacy Flynn McOmbs BILL NO. 216

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(2) The amount of the fee recoverable under subsection (1) shall be determined by the department after the hearing. The department shall notify both the applicant and the objector of the amount. The award of attorney fees under subsection (1) is a final action of the department and may be appealed to the district court.

(3) If an applicant appeals a denial of a permit to the district court and the denial is sustained, the district court may award reasonable attorney fees to any prior appropriator who objected to the application and was

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THIRD READING

SB216