

SENATE BILL NO. 94

INTRODUCED BY BOYLAN, GALT, ELLERD,  
ROTH, BRIGGS, IVERSON

IN THE SENATE

January 10, 1981	Introduced and referred to Committee on Judiciary.
January 15, 1981	Committee recommend bill do pass. Report adopted.
January 16, 1981	Bill printed and placed on members' desks.
January 19, 1981	Second reading, pass consideration.
January 20, 1981	Second reading, do pass.
January 21, 1981	Considered correctly engrossed.
January 22, 1981	Third reading, passed. Transmitted to House.

IN THE HOUSE

January 23, 1981	Introduced and referred to Committee on Judiciary.
March 5, 1981	Committee recommend bill be concurrent in. Report adopted.
March 7, 1981	Second reading, concurred in.
March 10, 1981	Third reading, Concurred in. Ayes, 96; Nays, 1.

IN THE SENATE

March 11, 1981	Returned from House. Concurred in. Sent to enrolling.  Reported correctly enrolled.
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BILL NO. 94  
INTRODUCED BY Sen. Edna Roth Briggs

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT A WATER JUDGE MAY BE A RETIRED DISTRICT JUDGE; TO PROVIDE THAT A WATER JUDGE MAY RESIGN; AND TO PERMIT A DISTRICT JUDGE OR RETIRED DISTRICT JUDGE TO SIT AS A WATER JUDGE IN MORE THAN ONE DIVISION WHEN CALLED BY THE CHIEF JUSTICE OR ANOTHER WATER JUDGE; AMENDING SECTIONS 3-7-201, 3-7-203, 3-7-213, 3-7-501, AND 19-5-103; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 3-7-201, MCA, is amended to read:

"3-7-201. Designation of water judge. (1) A water judge shall be designated within 30 days after May 11, 1979, for each water division by a majority vote of a committee composed of the district judge from each single judge judicial district and the chief district judge from each multiple judge judicial district, wholly or partly within the division. \* Except as provided in subsection (2) and 3-7-213, a water judge must be a district judge or retired district judge of a judicial district wholly or partly within the water division.

(2) A district judge or retired district judge may not

sit as a water judge in more than one division if requested by the chief justice of the supreme court or the water judge of the division in which he is requested to sit.

~~(2)~~(3) A water judge, when presiding over a water division, presides as district judge in and for each judicial district wholly or partly within the water division."

Section 2. Section 3-7-203, MCA, is amended to read:

"3-7-203. Vacancies. If a vacancy occurs, it shall be filled in the manner provided in 3-7-201 for the initial designation of a water judge. A vacancy is created when a water judge dies, ~~resigns,~~ retires, is not elected to a subsequent term, forfeits his judicial position, is removed, or is otherwise unable to complete his term as a ~~district~~ water judge."

Section 3. Section 3-7-213, MCA, is amended to read:

"3-7-213. Designation of alternate judge. The water judge may designate any other district judge ~~within the water division or retired district judge~~ to preside in his absence on his behalf as water judge for the immediate enforcement of an existing decree or the immediate granting of extraordinary relief as may be provided for by law upon an allegation of irreparable harm."

Section 4. Section 3-7-501, MCA, is amended to read:

"3-7-501. Jurisdiction. (1) The jurisdiction of each

1 judicial district concerning the determination and  
2 interpretation of existing water rights is exercised  
3 exclusively by it through the water division or water  
4 divisions that contain the judicial district wholly or  
5 partly.

6 (2) No water judge may preside over matters concerning  
7 the determination and interpretation of existing water  
8 rights beyond the boundaries specified in 3-7-102 for his  
9 division except as provided in 3-7-201 and 3-7-213.

10 (3) The water judge for each division shall exercise  
11 jurisdiction over all matters concerning the determination  
12 and interpretation of existing water rights within his  
13 division as specified in 3-7-102 that are considered filed  
14 in or transferred to a judicial district wholly or partly  
15 within the division."

16 Section 5. Section 19-5-103, MCA, is amended to read:

17 "19-5-103. Call of retired judge for duty. (1) Every  
18 judge or justice receiving retirement pay under the  
19 provisions of this chapter shall, if physically and mentally  
20 able, be subject to call by the supreme court or the chief  
21 justice thereof to aid and assist the supreme court, or any  
22 district court, or any water court under such directions as  
23 the supreme court may give, including the examination of the  
24 facts, and cases, ~~before the court, the examination of and~~  
25 authorities cited, and the preparation of opinions for and

1 on behalf of the supreme court, district court, or water  
2 court, or to serve as water judge. The opinions, when and if  
3 and to the extent approved by the court, may by the court be  
4 ordered to constitute the opinion of such court. Such court  
5 and such retired judge or justice may, subject to any rule  
6 which the supreme court may adopt, perform any and all  
7 duties preliminary to the final disposition of cases insofar  
8 as not inconsistent with the constitution of the state.

9 (2) Such retired judge or justice, when called to  
10 service as herein provided, shall be reimbursed for his  
11 actual expenses, if any, in responding to such call. In  
12 addition, for each day of temporary service a retired  
13 justice or judge is entitled to receive compensation in an  
14 amount equal to one-twentieth of the monthly salary then  
15 currently applicable to the judicial position in which the  
16 temporary service is rendered minus an amount equal to  
17 one-twentieth of the monthly retirement allowance the  
18 retired justice or judge is receiving for each day of  
19 service rendered."

20 Section 6. Effective date. This act is effective on  
21 passage and approval.

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Approved by Committee on Judiciary

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INTRODUCED BY *[Signature]* BILL NO. 94 *[Signature]*

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(2) A district judge or retired district judge may not

sit as a water judge in more than one division if requested by the chief justice of the supreme court or the water judge of the division in which he is requested to sit.

(2)(3) A water judge, when presiding over a water division, presides as district judge in and for each judicial district wholly or partly within the water division."

Section 2. Section 3-7-203, MCA, is amended to read:

"3-7-203. Vacancies. If a vacancy occurs, it shall be filled in the manner provided in 3-7-201 for the initial designation of a water judge. A vacancy is created when a water judge dies, resigns, retires, is not elected to a subsequent term, forfeits his judicial position, is removed, or is otherwise unable to complete his term as a district water judge."

Section 3. Section 3-7-213, MCA, is amended to read:

"3-7-213. Designation of alternate judge. The water judge may designate any other district judge within the water division or retired district judge to preside in his absence on his behalf as water judge for the immediate enforcement of an existing decree or the immediate granting of extraordinary relief as may be provided for by law upon an allegation of irreparable harm."

Section 4. Section 3-7-501, MCA, is amended to read:

"3-7-501. Jurisdiction. (1) The jurisdiction of each

1 judicial district concerning the determination and  
 2 interpretation of existing water rights is exercised  
 3 exclusively by it through the water division or water  
 4 divisions that contain the judicial district wholly or  
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6 (2) No water judge may preside over matters concerning  
 7 the determination and interpretation of existing water  
 8 rights beyond the boundaries specified in 3-7-102 for his  
 9 division except as provided in 3-7-201 and 3-7-213.

10 (3) The water judge for each division shall exercise  
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 12 and interpretation of existing water rights within his  
 13 division as specified in 3-7-102 that are considered filed  
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16 Section 5. Section 19-5-103, 4CA, is amended to read:

17 "19-5-103. Call of retired judge for duty. (1) Every  
 18 judge or justice receiving retirement pay under the  
 19 provisions of this chapter shall, if physically and mentally  
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August  
INTRODUCED BY *Boylan* *Wolf* *Edna Roth Briggs*  
Hansen

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REFERENCE BILL  
SB 94

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